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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91190899
Party	Plaintiff Sharp Kabushiki Kaisha, a/t/a Sharp Corporation
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Submission	Motion to Compel Discovery
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Signature	/Sheryl De Luca/
Date	10/06/2011
Attachments	Motion to Compel.pdf (94 pages)(3322392 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SHARP KABUSHIKI KAISHA, a/t/a SHARP CORPORATION,	)	Attorney Ref.: 790-2052
)	
)	
Opposer,)	
)	
v.	)	Opposition No. 91190899
	)	Mark: ONSHARP
ONSHARP, INC.,	)	Application No. 77/645,273
)	
Applicant.)	

**OPPOSER'S MOTION TO COMPEL DISCOVERY
AND FOR ENTRY OF A MODIFIED PROTECTIVE ORDER**

I. INTRODUCTION

To date, discovery was set to close on September 4, 2011. On August 26, 2011, Opposer Sharp Kabushiki Kaisha, a/t/a Sharp Corporation filed a motion to extend the discovery period and the subsequent trial dates by 90 days. On September 27, 2011, the Board granted this motion as conceded. Thus, the current due date for the close of discovery is now December 3, 2011.

On June 15, 2011, Opposer timely served document requests, interrogatories and requests for admission upon Applicant Onsharp, Inc. ("Onsharp"). See copies of document requests and interrogatories attached as Exhibits A and B, respectively.¹ On July 13, 2011 Applicant requested a two week extension of time to respond, which Opposer granted.

¹ The deficiencies in Applicant's responses to Opposer's requests for admissions to Applicant are being addressed in a separately filed motion to test the sufficiency of the responses.

On August 3, 2011, Applicant served its written discovery responses to the interrogatories and document requests. See Exhibits C and D. Applicant has not yet provided any responsive information of a confidential nature. Opposer's review of Applicant's responses found them to be deficient in the ways identified below.

Opposer made a good faith effort resolve the issues identified in this motion by correspondence. On August 10, 2011, Opposer sent a letter to counsel for Applicant via email and first class mail detailing the deficiencies it perceived in Applicant's discovery responses. See Exhibit E.

Further, in its August 10th letter, Opposer requested that in lieu of Applicant's offer to make its non-confidential responsive documents available for inspection at a location remote to Opposer's counsel², that the parties exchange their documents. Alternatively, Opposer requested that Applicant identify the amount of its responsive documents that would be available for inspection so that Opposer could make plans on how to proceed.

Opposer's August 10, 2011 letter also requested agreement with Opposer's version of a protective order, which varies slightly from the TTAB's standard protective order. Opposer's version is attached. See Exhibit F. Opposer had previously provided its protective order to Applicant on June 8, 2011.

Opposer's August 10th letter requested a response from Applicant by August 17, 2011. Applicant never replied to Opposer's August 10, 2011 letter. Thus, the parties have been unable to reach agreement about the issues in this motion.

² Applicant did not offer to make confidential documents available.

The three disputes (i.e., discovery deficiencies, location of document production and modified Protective Order) are discussed below.

II. APPLICANT SHOULD BE COMPELLED TO PROVIDE MORE COMPLETE RESPONSES TO OPPOSER'S INTERROGATORIES AND DOCUMENT REQUESTS.

In accordance with TBMP 523.01 Opposer moves the Board for an order compelling the Applicant to correct the following deficiencies identified below with respect to the document requests and interrogatories of Opposer to Applicant.

A. Document Requests

Document Request Nos. 1-8 and 12-34:

In Applicant's responses to Document Request Nos. 1-8 and 12-34, Applicant made objections that the document requests are burdensome, oppressive, unreasonably cumulative or duplicative, overbroad and/or seeking irrelevant information or information not reasonably calculated to lead to the discovery of admissible evidence. However, it did not explain these objections. Opposer's letter of August 10, 2011 made clear that Opposer does not need duplicative documents and asked for an explanation of the basis of those objections. Applicant did not reply to the August 10th letter. Opposer requests that Applicant be ordered to delete these unexplained objections and fully respond to the requests.

Document Request Nos. 2-15, 21, 22, 29, 31 and 32:

In Applicant's responses to Document Request Nos. 2-15, 21, 22, 29, 31 and 32, it stated that "Applicant's mark is ONSHARP which cannot be dissected." Since

Document Requests Nos. 2-15, 21, 22, 29, 31 and 32 ask for documents pertaining to any mark, trade name, domain name or keyword that contains the term SHARP, Opposer believes that Applicant's response is not well taken, since the entire term SHARP is incorporated in the mark ONSHARP. Many cases find that a mark that contains the entirety of a prior mark can be a factor leading to a likelihood of confusion. See e.g., *Hunt Control Systems Inc. v. Koninklijke Philips Electronics N.V.*, 98 USPQ2d 1558 (TTAB 2011) ("When one incorporates the entire arbitrary mark of another into a composite mark, the inclusion of a significant, non-suggestive element will not necessarily preclude a likelihood of confusion."). See also, *In re Pierre Fabre S.A.*, 188 USPQ 691 (TTAB 1987) (PEDI-RELAX for foot cream held likely to be confused with RELAX for antiperspirant).

Additionally, although the marks at issue must be considered in their entireties, it is well-settled that one feature of a mark may be found to be more significant than another in terms of the mark's function as a source indicator, and it is appropriate to give more weight to this dominant feature in determining the commercial impression created by the mark, and in comparing the marks at issue under the first *du Pont* factor. See *In re Chatam International Inc.*, 380 F.3d 1340, 71 USPQ2d 1944, 1946 (Fed. Cir. 2004). Opposer seeks a ruling that Applicant may not withhold documents based on its response that its mark cannot be dissected.

Documents Request Nos. 2-5, 12 and 13:

In its responses to Documents Request Nos. 2-5, 12 and 13 Applicant objected to the meaning of "similar term." In its August 10, 2011 letter, Opposer clarified that

“similar term” means any terms or symbols that include the term SHARP or a term that is visually or phonetically similar to SHARP (such as SCHARP, SHARC, SHARPA, etc.). This is a standard phrase in trademark law and its common meaning cannot be appropriately avoided. Opposer requests that Applicant be required to provide a complete response to these requests based on Opposer’s clarification of the meaning of “similar term.”

Document Request No. 25:

With regard to Applicant’s objection in response to Document Request No. 25 as to the meaning of “SHARP Marks,” Opposer’s August 10th letter directed Applicant to the definition “D” provided for “Opposer’s SHARP Marks” set forth in “Opposer’s First Set of Interrogatories to Applicant.” Document Request No. 25 requests “All documents expressing an opinion as to the likelihood of confusion, or absence thereof, between Applicant’s use of the mark ONSHARP and Opposer’s use of Opposer’s SHARP Marks.” Opposer requests that Applicant be required to provide a complete response to Request No. 25 based on the already provided definition of “Opposer’s SHARP Marks.”

Document Request Nos. 26, 27 and 30:

Applicant’s responses to Document Request Nos. 26, 27 and 30 include an objection that its mark is ONSHARP and cannot be dissected. However, the mark set out in the requests is ONSHARP. Opposer requests that Applicant be required to remove this objection and provide complete responses. See *also*, the comments above regarding Request Nos. 2-15, 21, 22, 29, 31 and 32.

Document Request Nos. 9, 11 and 30:

With regard to Applicant's objection in response to Document Request Nos. 9, 11 and 30 as to the meaning of "Opposer's SHARP Marks," Opposer again requests that Applicant be required to provide a complete response to these requests based on definition "D" provided for "Opposer's SHARP Marks" set forth in "Opposer's First Set of Interrogatories to Applicant."

Document Request No. 6:

With regard to Applicant's objection in its response to Document Request No. 6 that the request was vague and ambiguous as to the meaning of "under such SHARP marks," Opposer pointed out in its August 10th letter to Applicant that Applicant should answer this by referring to part 6(2) of that Request as to the meaning of "under such SHARP marks. Opposer requests that applicant be required to provide a complete response to this request by referring to part 6(2) of that Request as to the meaning of "under such SHARP marks."

Document Request Nos. 12, 13, 14 and 15:

With regard to Document Request Nos. 12, 13, 14 and 15, Applicant objected to making a complete response based on its claimed belief that Opposer or its attorneys have possession, custody and control of the information requested. Opposer's letter of August 10th sought Applicant's explanation for this belief. Applicant did not provide any explanation. These requests clearly encompass *Applicant's* information related to the ONSHARP mark and any variations of that mark. Sharp is entitled to Applicant's responsive documents and requests a ruling to that effect.

Document Request No.14 and 15:

With regard to Applicant's response to Document Request Nos. 14 and 15, Applicant claims to not understand what is meant by "any mark containing the term SHARP." In Opposer's August 10th letter to Applicant it clarified that, "any mark containing the term SHARP" includes any mark containing the letters SHARP in that order, which clearly encompasses the mark ONSHARP. Opposer requests that Applicant be required to provide full responses to these requests based on this clarification of "any mark containing the term SHARP."

For all of the above deficiencies, Opposer requests the Board to compel the requested relief or impose sanctions against the Applicant or failure to comply, including those set forth in TBMP 411.05.

Regarding the production or inspection of non-confidential documents, Opposer in its letter of August 10th has requested that the parties provide copies of the documents to each other instead of making them available for inspection at remote locations to counsel; or alternatively, Opposer has requested that Applicant inform Opposer of the order of magnitude of Applicant's responsive documents in terms of estimated number of pages or "banker's boxes" so that Opposer can determine how to proceed. Applicant did not respond to Opposer's August 10th letter.

Consequently, pursuant to 37 CFR § 2.120(d)(2), Opposer respectfully requests an order from the Board that Applicant be required to provide copies of its responsive documents and things to Opposer by mail or electronically, rather than make them available only at a location remote to Opposer for inspection. Alternatively, Opposer requests that Applicant be required to quantify its responsive documents and things and provide an estimate to Opposer so that Opposer can take further appropriate action.

B. Interrogatories

Interrogatory No. 1:

In Interrogatory No. 1 Applicant was asked to provide a description in detail of the channels of trade including the persons who sell and resell or are intended to sell and resell Applicants products and service. Applicant failed to provide this information. Opposer requests that Applicant be required to provide the requested information.

Interrogatory No. 3:

In response to Interrogatory No 3, which requests information about the manner in which the mark ONSHARP has been used on the identified services, Applicant merely referred to its answer to Interrogatory No. 2. However, this is nonresponsive. Interrogatory No. 3 raises a different question than Interrogatory No. 2 (which asks for an identification of the products or services on which the mark has been or is intended to be used). Opposer requests that Applicant be required to supplement its response to Interrogatory No. 3 to identify the *manner* in which the mark has been used.

Interrogatory No. 4:

Interrogatory No. 4 asks for the date of first use and first use in commerce by Applicant of the mark ONSHARP for each product and/or service identified in response to Interrogatory No. 2. Applicant's response to Interrogatory No. 4 includes a reference to Interrogatory No. 2 as to the date of first use ("The mark has been continuously used in commerce since at least as early as July 1, 2000"). However, since Interrogatory 4 was directed to each service separately, Opposer requests supplementation of this response to indicate whether the statement in Interrogatory No. 2 applies to each of the services identified in response to Interrogatory No. 2; or requests that Applicant be

precluded from being able to rely on any additional responsive substantive information in its own defense.

Interrogatory No. 4 also asks for details of the circumstance of each first use. Opposer requests that Applicant be required to provide this information.

Interrogatory Nos. 6, 9, 10 and 11:

Applicant withheld its responses to Interrogatory Nos. 6, 9, 10 and 11 in view of the confidential nature of the information sought. Opposer requests complete responses in view of the present motion for entry of a protective order.

Interrogatory No. 8:

In Interrogatory No. 8, Opposer requested the dates during which Applicant's promotional materials were/are distributed. Applicant failed to respond with this information. Opposer requests that Applicant be required provide this information.

Interrogatory Nos. 11, 12 and 14:

In Opposer's August 10th letter Opposer clarified that Interrogatory Nos. 11, 12 and 14, cover any mark (or keyword in the case of No. 14) containing the term "SHARP," which would include the mark (or keyword in the case of No. 14) ONSHARP since ONSHARP includes SHARP in its entirety. Applicant's objection to these requests that its mark is ONSHARP which cannot be dissected does not relieve Applicant of the obligation to provide the information requested in these interrogatories. Opposer seeks a ruling that Applicant may not withhold information based on its response that its mark cannot be dissected.

Interrogatory No. 14:

Interrogatory No. 14 requested that Applicant identify all search engine keywords purchased by Applicant or Applicant's behalf that include the term SHARP. In response, Applicant indicated that "one of its keywords is ONSHARP." Opposer requests that Applicant be required to confirm that the only keyword purchased by Applicant or on Applicant's behalf that includes the term SHARP is ONSHARP.

With respect to all of the deficiencies in the Interrogatories noted above, Opposer requests the Board to compel the requested relief or impose sanctions against the Applicant or failure to comply, including those set forth in TBMP 411.05.

III. OPPOSER REQUESTS ENTRY OF ITS MODIFIED PROTECTIVE ORDER

Opposer respectfully moves the Board pursuant to 37 CFR §2.120(f) to enter Opposer's modified protective order. Opposer's proposed Order adopts most terms in the TTAB's standard protective order, but requests a variation on certain terms. In particular, it seeks a two-tiered level of confidentiality ("Confidential" or "Highly Confidential"), wherein only expressly designated in-house counsel or legal department employees of a party and outside (retained) counsel may have access to "Confidential Information"; and only outside (retained) counsel may have access to information designated "Highly Confidential."

Opposer's version of the protective order further expressly precludes Applicant's initial counsel from having access to Opposer's "Confidential" or "Highly Confidential" information either as in-house or outside counsel because of the close relationship of that person/firm with the president of Applicant.³ Opposer has numerous confidential

³ Toni M. Sandin is believed to be married to the president of Onsharp. Ms. Sandin was the contact at Onsharp who filed the presently opposed trademark application and

and commercially sensitive documents relating to its products/services and sales and marketing⁴ and wishes to maintain control of who has access to its proprietary information such that its sensitive information is revealed only in the proposed designated way.

Opposer initially communicated its revised protective order to Applicant on June 8, 2011. Applicant did not respond until July 21, 2011. See pages 4-5 of Applicant's July 21, 2011 letter to Opposer, which addresses the outstanding protective order attached as Exhibit I.

Applicant's July 21st criticisms of Opposer's protective order are not well-taken. First, Applicant stated "Onsharp does not want to have anyone at Sharp view its trade secret/commercially sensitive information, including its in-house counsel." This objection does not make sense because Opposer's protective order is specifically designed to prevent in-house counsel from access to each other's Highly Confidential information.

Second, Applicant said "I would welcome your reasoning from [sic] suggesting that the protective order preclude anyone who was not associated with in-house or outside counsel from viewing confidential material . . . my client will not agree to such a provision as this would preclude anyone from Onsharp from viewing confidential

remains the contact of record in the application being opposed. Ms. Sandin's firm, Sandin Law, Ltd., was the firm that initially negotiated with Opposer to resolve this opposition. Sandin Law, Ltd. is believed to share an address with Applicant at 474 45th St. S., Fargo ND 58103-0916, per attached Exhibits G and H. Ms. Sandin and her law firm were appointed power of attorney in this opposition proceeding, which power has not been revoked. See "Revocation and Substitution of Power of Attorney" in this proceeding of December 11, 2009.

⁴ For example, it has spreadsheets concerning media budgets, documents concerning sales figures and sponsorship agreements.

information.” In response, Opposer’s protective order does not “preclude anyone from Onsharp from viewing confidential information. Rather, it specifically provides for access to “Confidential” information to expressly designated in-house or legal employees of a party and to outside counsel (with the specific prohibition against access to Ms. Sandin, her law firm and other persons similarly affiliated (e.g., married, related by familial or personal relationship) to an Onsharp employee). That is, if an in-house legal employee of Onsharp is related by some affiliation such as by blood relation, domestic partnership or marriage to a non-legal employee of Onsharp, then such in-house legal employee would not be permitted access to Sharp’s “Confidential” or “Highly Confidential” information.

Third, Applicant stated that “Ms. Sandin and her law firm . . . is neither an employee of Onsharp nor an attorney of record in this matter. We consider [Opposer’s request to preclude Ms. Sandin’s access to Sharp’s confidential materials] to be merely for purposes of harassment and will not discuss the matter further.” However, Opposer’s protective order is not meant in any way to harass Applicant. Ms. Sandin is the contact of record in the underlying application and despite Applicant’s counsel’s contention, on the record she continues to have power of attorney in this proceeding, since the power of attorney filed on December 11, 2009 has not been revoked. Applicant is believed to be a very small company⁵ and Opposer wants to prevent the disclosure (including inadvertent disclosure) of its confidential information with non-legal employees of Applicant. Opposer believes that it is reasonable to prevent the spouse of the president of Applicant from being given access to Opposer’s confidential and highly

confidential information and that it is also reasonable to preclude such access to legal employees of Applicant who are similarly related by affiliation with non-legal employees of Applicant because they present an unacceptable risk for inadvertent disclosure of Opposer's information.

The small size of Applicant also suggests that any in-house legal employee might be less likely to be adequately separated from decision making employees of the company. This is additional reason that Opposer requires that access to its "Confidential" information be limited and only be given to persons who are expressly designated in the protective order.

Opposer requested agreement with its modified protective order again in its August 10th letter. However, Applicant has not responded to this request. In view of the above, it is believed that the proposed version of the protective order will best protect Opposer's interests and will not prejudice Applicant's ability to litigate this case.

Moreover, with regard to all of Opposer's documents requests and some of its interrogatories to Applicant (e.g., 6, 9, 10 and 11), Applicant has indicated that it is withholding confidential information until after the protective order is entered. In order to continue to prosecute this case, Opposer will need access to this withheld information via a protective order.

For the above reasons, Opposer requests entry of the attached proposed protective order.

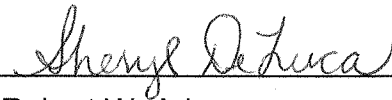
⁵ It is believed that Applicant has less than 15 employees. See Exhibit J ("Onsharp has

IV. CONCLUSION

Applicant has not met its discovery obligations. It has attempted to block Opposer from taking appropriate discovery in this action with unfounded objections and insufficient responses. For the reasons set forth above, Applicant should be compelled to delete its unreasonable objections and provide more complete responses; or be subject to applicable sanctions. Further, Opposer requests that Opposer's modified Protective Order be adopted in this case; and that the parties be ordered to exchange their responsive documents, or alternatively, that Applicant be required to identify the amount of its responsive documents.

Respectfully submitted,

**SHARP KABUSHIKI KAISHA,
a/t/a SHARP CORPORATION**

By: 
Robert W. Adams
Sheryl De Luca
NIXON & VANDERHYE P.C.
901 N. Glebe Road, 11th Floor
Arlington, Virginia 22203
Tel: (703) 816-4000

grown to a company of 12 employees").

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "OPPOSER'S MOTION TO COMPEL DISCOVERY AND FOR ENTRY OF A MODIFIED PROTECTIVE ORDER" was this 6th day of October 2011 transmitted by first class mail to counsel for Applicant:

Donika P. Pentcheva
Westman Champlin & Kelly PA
900 Second Avenue South, Suite 1400
Minneapolis, MN 55402



Sheryl De Luca

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SHARP KABUSHIKI KAISHA, a/t/a	)	Attorney Ref.: 790-2052
SHARP CORPORATION,)	
)	
Opposer,)	
)	
v.	)	Opposition No. 91190899
	)	Mark: ONSHARP
ONSHARP, INC.,	)	Application No. 77/645,273
)	
Applicant.)	

EXHIBIT A

TO

**OPPOSER'S MOTION TO COMPEL DISCOVERY
AND FOR ENTRY OF A MODIFIED PROTECTIVE ORDER**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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SHARP KABUSHIKI KAISHA, a/t/a SHARP CORPORATION,)	Attorney Ref.: 790-2052
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Opposer,)	
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v.)	Opposition No. 91190899
)	Mark: ONSHARP
ONSHARP, INC.,)	Application No. 77/645,273
)	
Applicant.)	

**OPPOSER'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS AND THINGS**

Opposer, Sharp Kabushiki Kaisha, a/t/a Sharp Corporation, in accordance with Fed. R. Civ. P. Rule 34 and 37 C.F.R. 2.116 and 2.120, hereby requests that applicant, Onsharp, Inc., produce the following documents within thirty (30) days following receipt of these requests. For purposes of responding to opposer's requests, applicant should apply the "Definitions and Instructions" set forth in "Opposer's First Set of Interrogatories to Applicant," served concurrently herewith.

REQUESTS

REQUEST NO. 1

All documents requested to be identified in "Opposer's First Set of Interrogatories," served concurrently herewith.

REQUEST NO. 2

Copies of all different packaging, wrappers, labels, signs, advertisements,

catalogues, brochures, posters, sales sheets, point of purchase displays, fliers, television advertising, web pages, third party web pages and price lists which refer to any product or service of Applicant that is/was sold or offered for sale or is intended to be sold or offered for sale in connection with any mark or trade name containing the term SHARP or a similar term.

REQUEST NO. 3

A representative sample of each product, label, wrapper, package and box distributed by or on behalf of Applicant bearing any mark or trade name containing the term SHARP or a similar term or used in connection with products or services involving those marks.

REQUEST NO. 4

All documents in Applicant's possession, custody or control concerning the use by any person other than Applicant of any mark containing the term SHARP or a similar term in connection with marketing services, including, providing informational web pages designed to generate sales traffic via hyperlinks to other web sites; On-line advertising and marketing services; Pay per click (PPC) advertising management services; Computer services, including, monitoring and reporting on the performance, availability, and errors of web sites of others; Computer services, namely, creating and maintaining web sites for others; Computer services, namely, designing and implementing web sites for others; Computer services, namely, managing web sites for others; Computer services, namely, monitoring the web sites of others to improve scalability and performance of web sites of others; Computer services, namely, search engine optimization; Consultation services in the field of search engine optimization;

Creating, designing and maintaining web sites; Creation and maintenance of web sites for others; Design and development of on-line computer software systems; Design of home pages, computer software and web sites; Design, creation, hosting, maintenance of web sites for others; Designing web sites for advertising purposes; Displaying the web sites and images of others on a computer server; Elaboration and maintenance of web sites for third parties; Hosting the web sites of others; Hosting the web sites of others on a computer server for a global computer network; IT consulting services; Web site design; Web site development for others; and Web site hosting services.

REQUEST NO. 5

All documents concerning any licenses, agreements, assignments or consents to use naming Applicant as a party and referring or relating to any mark or trade name containing the term SHARP or a similar term.

REQUEST NO. 6

All documents in Applicant's possession, custody or control concerning Applicant's awareness of (1) Opposer, (2) any mark of Opposer containing the term SHARP or (3) any of the products and services sold or offered for sale by Opposer under such SHARP marks.

REQUEST NO. 7

All documents concerning any confusion between Applicant's use of any mark containing the term SHARP (including ONSHARP) and the products and services sold by Opposer under Opposer's SHARP Marks.

REQUEST NO. 8

All documents concerning Applicant's creation, adoption, selection and first use

of any mark containing the term SHARP.

REQUEST NO. 9

All documents concerning any Market Research, polls or surveys conducted by or caused to be conducted or obtained for Applicant which relate to any mark containing the term SHARP or to Opposer's SHARP Marks.

REQUEST NO. 10

All documents concerning the date and manner of first use in interstate commerce of each mark containing the term SHARP for products or services sold or offered for sale by Applicant or its licensees or any other person authorized by Applicant.

REQUEST NO. 11

All documents concerning any trademark search conducted or caused to be conducted by Applicant relating to any mark containing the term SHARP or to Opposer's SHARP Marks.

REQUEST NO. 12

One specimen of each different document concerning the marketing and advertising of Applicant's products or services bearing or relating to any mark containing the term SHARP or any similar mark.

REQUEST NO. 13

All documents concerning any state, federal and foreign trademark or service mark application or registration for any mark containing the term SHARP or any similar mark applied for or acquired by Applicant.

REQUEST NO. 14

Documents sufficient to evidence Applicant's advertising and promotional expenditures for products or services sold by Applicant in the United States in connection with any mark containing the term SHARP for each year in which the products/services have been sold or offered for sale.

REQUEST NO. 15

Documents sufficient to evidence Applicant's sales (in units and dollars) of products or services sold by Applicant in the United States under any mark containing the term SHARP for each year in which the products/services have been sold or offered for sale.

REQUEST NO. 16

All documents and things supporting Applicant's denial of any of request in Opposer's First Set of Requests for Admission to Applicant.

REQUEST NO. 17

All documents and things supporting Applicant's statement in paragraph 1 in its Answer to the Notice of Opposition in this proceeding.

REQUEST NO. 18

All documents and things supporting Applicant's statement in paragraph 2 in its Answer to the Notice of Opposition in this proceeding.

REQUEST NO. 19

All documents and things supporting Applicant's statement in paragraph 3 in its Answer to the Notice of Opposition in this proceeding.

REQUEST NO. 20

All documents and things supporting Applicant's statement in paragraph 4 in its

Answer to the Notice of Opposition in this proceeding.

REQUEST NO. 21

All documents showing correspondence between Applicant and any advertising agency concerning any mark that includes the term SHARP.

REQUEST NO. 22

All documents showing correspondence between Applicant and any third parties relating to any mark that includes the term SHARP.

REQUEST NO. 23

All documents relating to Applicant's plans to adopt and use the mark ONSHARP including without limitation, all proposals, resolutions, memoranda, correspondence, marketing opinions, artwork, press releases, mark search results and legal opinions in any country.

REQUEST NO. 24

All documents tending to show the class of present or future purchasers or users of services or products, sold, offered or delivered, intended to be sold, offered or delivered with respect to the mark ONSHARP by the Applicant.

REQUEST NO. 25

All documents expressing an opinion as to the likelihood of confusion, or absence thereof, between Applicant's use of the mark ONSHARP and Opposer's use of Opposer's SHARP Marks.

REQUEST NO. 26

All documents showing communications with manufacturers, wholesale establishment or retail establishments, or with their staffs concerning the sale or offer to

sell by Applicant of any goods or services with respect to the mark ONSHARP.

REQUEST NO. 27

All documents relating to the channels of trade through which Applicant's goods or services have been, are or intended to be sold or provided with respect to the ONSHARP mark.

REQUEST NO. 28

All documents concerning any domain names owned or controlled by applicant that incorporate the term SHARP in any part of the domain name.

REQUEST NO. 29

All documents concerning any application to register or any attempt to obtain by transfer any domain names by applicant that incorporate the term SHARP in any part of the domain name.

REQUEST NO. 30

All documents concerning any communication of Applicant with a third party concerning Opposer, Opposer's SHARP Marks, or any goods or services provided by Opposer under Opposer's SHARP Marks.

REQUEST NO. 31

All documents concerning any use by Applicant of any keywords or online search terms that include that term SHARP.

REQUEST NO. 32

A representative sample of service agreements provided by Applicant to any third party bearing any mark or trade name containing the term SHARP or used in connection with Applicants products or services involving those marks.

REQUEST NO. 33

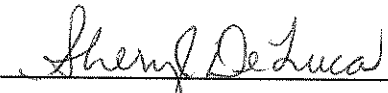
All documents that refer to, reflect, mention or discuss the meaning of the term that comprises the ONSHARP mark.

REQUEST NO. 34

To the extent not requested above, all documents referring or relating to the ONSHARP Mark.

Respectfully submitted,

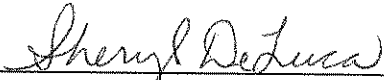
**SHARP KABUSHIKI KAISHA,
a/t/a SHARP CORPORATION**

By: 
Robert W. Adams
Sheryl De Luca
NIXON & VANDERHYE P.C.
901 N. Glebe Road, 11th Floor
Arlington, Virginia 22203
Tel: (703) 816-4000

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "OPPOSER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS TO APPLICANT" was this 15th day of June 2011 transmitted by first class mail to counsel for Applicant:

Donika P. Pentcheva
Westman Champlin & Kelly PA
900 Second Avenue South, Suite 1400
Minneapolis, MN 55402



Sheryl De Luca

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SHARP CORPORATION,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91190899
)	Mark: ONSHARP
ONSHARP, INC.,)	Application No. 77/645,273
)	
Applicant.)	

EXHIBIT B

TO

**OPPOSER'S MOTION TO COMPEL DISCOVERY
AND FOR ENTRY OF A MODIFIED PROTECTIVE ORDER**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SHARP KABUSHIKI KAISHA, a/t/a	)	Attorney Ref.: 790-2052
SHARP CORPORATION,)	
)	
Opposer,)	
)	
v.	)	Opposition No. 91190899
	)	Mark: ONSHARP
ONSHARP, INC.,	)	Application No. 77/645,273
)	
Applicant.)	

OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT

Opposer, Sharp Kabushiki Kaisha, a/t/a Sharp Corporation, in accordance with Rule 2.120(d) of the Trademark Rules of Practice and Rules 33, 34 and 36 of the Federal Rules of Civil Procedure, hereby requests that applicant, Onsharp, Inc., answer under oath the following interrogatories by serving written responses at the offices of Nixon & Vanderhye P.C., 901 North Glebe Road, 11th Floor, Arlington, Virginia, 22203-1808, Attention: Sheryl De Luca, Esq., within thirty (30) days after service of these interrogatories.

DEFINITIONS AND INSTRUCTIONS

A. The term "Applicant" means Onsharp, Inc. and any of its principals, officers, directors, employees, staff members, predecessors, successors, related companies and affiliates and any agent, representative or other person acting or purporting to act on its behalf.

B. The term "Opposer" means Sharp Kabushiki Kaisha, a/t/a Sharp

Corporation, and any division, parent, subsidiary, affiliate, predecessor in interest, assignee or other related business entity, and the predecessors of any of them.

C. The term "ONSHARP Mark" means the mark applied for in trademark Application Serial Number 77/645,273 by Applicant Onsharp, Inc.

D. "Opposer's SHARP Marks" means the term "SHARP" alone as well as in combination with other terms or symbols as used by Opposer.

E. The term "identify" when used in reference to:

(i) a "current officer or employee" of Applicant means to state his/her full name, the name and address of his/her employer, his/her present title or position, and the address at which he/she is currently employed;

(ii) any "other person" means to state, to the extent known, the person's full name, present or last known address, and the current or last known place of employment and business address;

(iii) an "oral communication" means to describe the date and time of the communication, the place where the communication occurred, all of the persons involved in the communication, any other person present, and the substance of the communication;

(iv) a "business entity" means to state, to the extent known, its full name and address;

(v) a "document" (with reference to the following interrogatories) means to describe specifically the document, including, where applicable, the subject matter of the document, its date, the name, the title and address of each writer or sender and each recipient, its present location and custodian, and, if any such document is not in

applicant's possession or subject to its control, state what disposition was made of it, by whom, and the date thereof. A copy of the document may be furnished in lieu of identifying it.

(vi) a "document" (with reference to the following document requests) means to produce the document or thing for inspection and copying.

F. The term "describe" with respect to a communication shall mean to state or identify the date, time of day, duration, location, persons involved, witnesses, physical occurrences, and a summary of the specific substance of any conversations. With respect to documents, "describe" shall mean to identify the type of document, its date, its author, its recipients, and to provide a summary of the substance thereof. Alternatively, a copy of such document may be furnished in lieu of describing it.

G. The terms "concerning" or "relating" means referring to, describing, relevant to, evidencing or constituting.

H. "Market Research" as used herein includes all surveys, polls, focus groups, market research studies and other investigations conducted on behalf of applicant, whether or not such investigations were completed, discontinued or fully carried out.

I. The term "document" shall include, with limitation, any tangible thing in applicant's possession, custody or control, or of which applicant has knowledge, wherever located, whether sent or received or neither, whether an original or a copy, including, without limitation, correspondence, memoranda, printed matter, reports, records, notes, calendars, diaries, telegrams, telexes, studies, market surveys, market research, tabulations, contracts, invoices, receipts, vouchers, registrations, books of

account or financial records, notes, advertisements, trademark search reports, directories, publications, computer tapes and printouts, videotapes, microfilm or the like, and photographs. In all cases where originals and/or non-identical copies are not available. The term "document" also means identical copies of original documents and copies of non-identical copies.

J. Whenever the terms "and" or "or" are used, they are to be construed both disjunctively and conjunctively as necessary to bring within the scope of these discovery requests responses that might otherwise be construed to be outside their scope.

K. The use of the singular form and any word includes the plural and vice versa. References to the masculine gender shall apply equally to the feminine gender.

L. In answering these interrogatories, even though the questions may be directed to "Applicant," Applicant shall furnish all information which is available to Applicant, including information in the possession of its attorneys or investigators. If Applicant cannot answer any of the following interrogatories in full after exercising due diligence to secure the information, please state an answer to the extent possible, specifying your inability to answer the remainder and stating whatever information or knowledge you have concerning the unanswered portions.

M. To the extent that any of the following discovery requests may call for information that allegedly is subject to a claim of privilege or attorney's work-product, answer so much of each interrogatory and each part thereof as does not request privileged or confidential information. With respect to those portions of the discovery requests which do request privileged or confidential information, set forth the basis for your claim or privilege or any other objection you may have.

N. If any document covered by these requests is withheld or not produced on the basis of a claim of privilege or any other objection, applicant shall provide Opposer with a list containing the following information for each of the documents:

(i) The reasons for withholding production of the document and any supporting facts. The claim of privilege or any other objection may be made in sufficient detail so as to permit the Board to adjudicate the validity of the claim or objection. For example, please state:

(ii) The subject matter of the document.

(iii) The names of people to whom copies were distributed.

(iv) The date the document was prepared.

(v) The name, employment, position and address of the author(s) and/or preparer(s) of the document.

(vi) A brief description of the document.

(vii) The number of the request under which each document would otherwise be produced.

O. For the convenience of the Board and the parties, each discovery request should be quoted in full immediately preceding the response. You are also requested to order and label any materials produced in accordance with the final paragraph of Fed. R. Civ. P. Rule 34(b).

INTERROGATORIES

INTERROGATORY NO. 1.

Describe in detail the business of Applicant as it relates to the ONSHARP Mark and describe in detail the channels of trade that this business operates in, including a description of the person(s) who sell and resell or are intended to sell and resell the Applicant's products and services in connection with the ONSHARP Mark (including but not limited to licensees, distributors, retailers, jobbers and/or wholesalers) and the person(s) who purchase or are intended to purchase those products/services.

INTERROGATORY NO. 2.

Identify each product and/or service that has been sold or offered for sale or is intended to be sold or offered for sale by Applicant or any person licensed or otherwise authorized by Applicant under the ONSHARP Mark.

INTERROGATORY NO. 3.

Describe in detail the precise manner in which the ONSHARP Mark has been used or is intended to be used on or in connection with each of the products and/or services described in response to Interrogatory No. 2.

INTERROGATORY NO. 4.

State the date of first use and the date of first use in commerce by Applicant of the ONSHARP Mark for each product and/or service identified in response to Interrogatory No. 2. In addition, describe in detail the circumstances of each such first use and first use in commerce.

INTERROGATORY NO. 5.

State whether Applicant was aware of the existence of Opposer and/or of

Opposer's SHARP Marks at the time that Applicant selected the ONSHARP Mark.

INTERROGATORY NO. 6.

Describe in detail the method used by Applicant to select the ONSHARP Mark, including, but not limited to:

- (a) the date of the selection;
- (b) the reason for selecting the mark; and
- (c) any search report or search documents relating to the selection of the ONSHARP mark.

INTERROGATORY NO. 7.

Identify each advertisement relating to Applicant's goods/services sold or offered for sale with respect to the ONSHARP Mark and also state for each advertisement:

- (a) the inclusive dates during which it was published; and
- (b) the publications in which it appeared.

INTERROGATORY NO. 8.

Identify each kind of promotional material (including, but not limited to, catalogues, brochures, posters, sales sheets, point of purchase displays, fliers, television advertising, web pages and price lists) which refer to Applicant's products/services, sold or offered for sale with respect to the ONSHARP Mark. As for each such item, state the inclusive dates during which the item or promotional material was or is currently distributed.

INTERROGATORY NO. 9.

State Applicant's advertising and promotional expenditures for products or

services sold by Applicant in connection with the ONSHARP Mark for each year in which the products/services have been sold or offered for sale.

INTERROGATORY NO. 10.

State Applicant's sales (in units and dollars) of products/services sold under the ONSHARP Mark for each year in which the products/services have been sold or offered for sale.

INTERROGATORY NO. 11.

Identify each search, clearance or other inquiry conducted by or on behalf of Applicant regarding any mark containing the term "SHARP" and also state:

- (a) the date upon which each such search, clearance or other inquiry was conducted;
- (b) the person who conducted each such search, clearance or other inquiry;
- (c) the person who authorized each such search, clearance or other inquiry;
- and
- (d) the name or location of each set of records searched.

INTERROGATORY NO. 12.

State whether Applicant is aware of any instance(s) in which any person

- (a) has, by words, deeds or otherwise, suggested a belief that Applicant is licensed, sponsored by or otherwise associated with Opposer;
- (b) has, by words, deeds or otherwise, suggested a belief that Applicant's products or services identified by any mark containing the term "SHARP" are offered under the control of, or are associated with Opposer;
- (c) has been in any way confused, mistaken or deceived as to the origin or

sponsorship of the goods or services sold or offered for sale by Applicant under any mark containing the term "SHARP," including "ONSHARP."

INTERROGATORY NO. 13.

If the answer to any aspect of the foregoing interrogatory is in the affirmative, describe the circumstances of each such instance and the identity of each person who has knowledge of or participated in each instance.

INTERROGATORY NO. 14.

Identify all Internet search engine keywords purchased by Applicant or Applicant's behalf that include the term SHARP.

INTERROGATORY NO. 15.

Describe in detail the market to which Applicant's goods or services offered or rendered under or in connection with the ONSHARP Mark are targeted or directed.

INTERROGATORY NO. 16.

Describe all communications Applicant has received from any third party mentioning Opposer or Opposer's SHARP Marks.

Respectfully submitted,

**SHARP KABUSHIKI KAISHA,
a/t/a SHARP CORPORATION**

By: 

Robert W. Adams
Sheryl De Luca
NIXON & VANDERHYE P.C.
901 N. Glebe Road, 11th Floor
Arlington, Virginia 22203
Tel: (703) 816-4000

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT" was this 15th day of June 2011 transmitted by first class mail to counsel for Applicant:

Donika P. Pentcheva
Westman Champlin & Kelly PA
900 Second Avenue South, Suite 1400
Minneapolis, MN 55402



Sheryl De Luca

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SHARP KABUSHIKI KAISHA, a/t/a)	Attorney Ref.: 790-2052
SHARP CORPORATION,)	
)	
Opposer,)	
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v.)	Opposition No. 91190899
)	Mark: ONSHARP
ONSHARP, INC.,)	Application No. 77/645,273
)	
Applicant.)	

EXHIBIT C

TO

**OPPOSER'S MOTION TO COMPEL DISCOVERY
AND FOR ENTRY OF A MODIFIED PROTECTIVE ORDER**

REQUEST NO. 1:

All documents requested to be identified in "Opposer's First Set of Interrogatories," served concurrently herewith.

RESPONSE TO REQUEST NO. 1:

The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. This request for production seeks proprietary and confidential business information. This request for production also seeks information protected under the Attorney-Client privilege. Subject to and without waiving the foregoing objections or the attorney-client privilege, Onsharp, to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at a mutually convenient place and time at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 2:

Copies of all different packaging, wrappers, labels, signs, advertisements, catalogues, brochures, posters, sales sheets, point of purchase displays, fliers, television advertising, web pages, third party web pages and price lists which refer to any product or service of Applicant that is/was sold or offered for sale or is intended to be sold or offered for sale in connection with any mark or trade name containing the term SHARP or a similar term.

RESPONSE TO REQUEST NO. 2:

The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. The request for production is vague and ambiguous because Applicant does not understand what SKK means by the term "similar term." Also, Applicant's mark is ONSHARP which cannot be dissected. Subject to and without waiving the foregoing objections Onsharp, to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at a mutually convenient place and time at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis,

Minnesota, 55402.

REQUEST NO. 3:

A representative sample of each product, label, wrapper, package and box distributed by or on behalf of Applicant bearing any mark or trade name containing the term SHARP or a similar term or used in connection with products or services involving those marks.

RESPONSE TO REQUEST NO. 3:

The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. The request for production is vague and ambiguous because Applicant does not understand what SKK means by the term "similar term." Also, Applicant's mark is ONSHARP which cannot be dissected. Subject to and without waiving the foregoing objections Onsharp, to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at a mutually convenient place and time at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 4:

All documents in Applicant's possession, custody or control concerning the use by any person other than Applicant of any mark containing the term SHARP or a similar term in connection with marketing services, including, providing informational web pages designed to generate sales traffic via hyperlinks to other web sites; On-line advertising and marketing services; Pay per click (PPC) advertising management services; Computer services, including, monitoring and reporting on the performance, availability, and errors of web sites of others; Computer services, namely, creating and maintaining web sites for others; Computer services, namely, designing and implementing web sites for others; Computer services, namely, managing web sites for others; Computer services, namely, monitoring the web sites of others to improve scalability and performance of web sites of others; Computer services, namely, search engine optimization; Consultation services in the field of search engine optimization; Creating, designing and maintaining web sites; Creation and maintenance of web sites for others; Design and development of on-line computer software systems; Design of home pages, computer software and web sites; Design, creation, hosting, maintenance of web sites for others; Designing web sites for advertising purposes; Displaying the web sites and images of others on a computer server; Elaboration and maintenance of web sites for third parties; Hosting the web sites of others; Hosting the web sites of others on a computer server for a global computer network; IT consulting services; Web site design; Web site development for others; and Web site hosting

services.

RESPONSE TO REQUEST NO. 4:

The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. The request for production is vague and ambiguous because Applicant does not understand what SKK means by the term “similar term.” Also, Applicant’s mark is ONSHARP which cannot be dissected. This request for production seeks proprietary and confidential business information. This request for production also seeks information protected under the Attorney-Client privilege. Subject to and without waiving the foregoing objections or the attorney-client privilege, Onsharp, to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at a mutually convenient place and time at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 5:

All documents concerning any licenses, agreements, assignments or consents to use naming Applicant as a party and referring or relating to any mark or trade name containing the term SHARP or a similar term.

RESPONSE TO REQUEST NO. 5:

The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. The request for production is vague and ambiguous because Applicant does not understand what SKK means by the term “similar term.” Also, Applicant’s mark is ONSHARP which cannot be dissected. This request for production seeks proprietary and confidential business information. This request for production also seeks information protected under the Attorney-Client privilege. Subject to and without waiving the foregoing objections or the attorney-client privilege, Onsharp, to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at a mutually

convenient place and time at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 6:

All documents in Applicant's possession, custody or control concerning Applicant's awareness of (1) Opposer, (2) any mark of Opposer containing the term SHARP or (3) any of the products and services sold or offered for sale by Opposer under such SHARP marks.

RESPONSE TO REQUEST NO. 6:

The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. The request for production is vague and ambiguous because Applicant does not understand what SKK means by the term "under such SHARP marks." Also, Applicant's mark is ONSHARP which cannot be dissected. This request for production seeks proprietary and confidential business information. This request for production also seeks information protected under the Attorney-Client privilege. Subject to and without waiving the foregoing objections or the attorney-client privilege, Onsharp, to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 7:

All documents concerning any confusion between Applicant's use of any mark containing the term SHARP (including ONSHARP) and the products and services sold by Opposer under Opposer's SHARP Marks.

RESPONSE TO REQUEST NO. 7:

The request for production is overbroad and seeks irrelevant information or information not reasonably calculated to lead to the discovery of admissible evidence. This request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. This

request for production is vague and ambiguous. Applicant's mark is ONSHARP which cannot be dissected. This request for production also seeks information protected under the Attorney-Client privilege. Subject to and without waiving the foregoing objections or the attorney-client privilege, Onsharp, to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 8:

All documents concerning Applicant's creation, adoption, selection and first use of any mark containing the term SHARP.

RESPONSE TO REQUEST NO. 8:

The request for production is overbroad and seeks irrelevant information or information not reasonably calculated to lead to the discovery of admissible evidence. The request for production is vague and ambiguous. Applicant's mark is ONSHARP which cannot be dissected. This request for production seeks proprietary and confidential business information. This request for production also seeks information protected under the Attorney-Client privilege. Subject to and without waiving the foregoing objections or the attorney-client privilege, Onsharp, to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 9:

All documents concerning any Market Research, polls or surveys conducted by or caused to be conducted or obtained for Applicant which relate to any mark containing the term SHARP or to Opposer's SHARP Marks.

RESPONSE TO REQUEST NO. 9:

The request for production is vague and ambiguous. Applicant does not understand what is meant by the term "Opposer's SHARP Marks." Applicant's mark is ONSHARP which cannot be dissected. This request for production seeks proprietary and confidential business information. This request for production also seeks information protected under the Attorney-Client privilege. Subject to and without waiving the foregoing objections or the attorney-client privilege, Onsharp, to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 10:

All documents concerning the date and manner of first use in interstate commerce of each mark containing the term SHARP for products or services sold or offered for sale by Applicant or its licensees or any other person authorized by Applicant.

RESPONSE TO REQUEST NO. 10:

The request for production is vague and ambiguous. Applicant's mark is ONSHARP which cannot be dissected. This request for production seeks proprietary and confidential business information. This request for production also seeks information protected under the Attorney-Client privilege. Subject to and without waiving the foregoing objections or the attorney-client privilege, Onsharp, to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 11:

All documents concerning any trademark search conducted or caused to be conducted by

Applicant relating to any mark containing the term SHARP or to Opposer's SHARP Marks.

RESPONSE TO REQUEST NO. 11:

The request for production is vague and ambiguous. Applicant does not understand what is meant by the term "Opposer's SHARP Marks." Applicant's mark is ONSHARP which cannot be dissected. This request for production seeks proprietary and confidential business information. This request for production also seeks information protected under the Attorney-Client privilege. Subject to and without waiving the foregoing objections or the attorney-client privilege, Onsharp, to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 12:

One specimen of each different document concerning the marketing and advertising of Applicant's products or services bearing or relating to any mark containing the term SHARP or any similar mark.

RESPONSE TO REQUEST NO. 12:

The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. This request for production is also vague and ambiguous. Applicant does not understand what is meant by the term "similar mark." Applicant's mark is ONSHARP which cannot be dissected. This request for production is objected to because SKK and SKK's attorneys are believed to have possession, custody and control of the information and evidence requested.

REQUEST NO. 13:

All documents concerning any state, federal and foreign trademark or service mark application or registration for any mark containing the term SHARP or any similar mark applied for or acquired by Applicant.

RESPONSE TO REQUEST NO. 13:

The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. This request for production is also vague and ambiguous. Applicant does not understand what is meant by the term “similar mark.” Applicant’s mark is ONSHARP which cannot be dissected. This request for production is objected to because SKK and SKK’s attorneys are believed to have possession, custody and control of the information and evidence requested.

REQUEST NO. 14:

Documents sufficient to evidence Applicant’s advertising and promotional expenditures for products or services sold by Applicant in the United States in connection with any mark containing the term SHARP for each year in which the products/services have been sold or offered for sale.

RESPONSE TO REQUEST NO. 14:

The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. This request for production is also vague and ambiguous. Applicant does not understand what is meant by the term “any mark containing the term SHARP.” Applicant’s mark is ONSHARP which cannot be dissected. This request for production is objected to because SKK and SKK’s attorneys are believed to have possession, custody and control of the information and evidence requested.

REQUEST NO. 15:

Documents sufficient to evidence Applicant’s sales (in units and dollars) of products or services sold by Applicant in the United States under any mark containing the term SHARP for each year in which the products/services have been sold or offered for sale.

RESPONSE TO REQUEST NO. 15:

The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. This request for production is also vague and ambiguous. Applicant does not

understand what is meant by the term “any mark containing the term SHARP.” Applicant’s mark is ONSHARP which cannot be dissected. This request for production is objected to because SKK and SKK’s attorneys are believed to have possession, custody and control of the information and evidence requested.

REQUEST NO. 16:

All documents and things supporting Applicant's denial of any of request in Opposer's First Set of Requests for Admission to Applicant.

RESPONSE TO REQUEST NO. 16:

The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. The request for production is overbroad. This request for production seeks proprietary and confidential business information. This request for production also seeks information protected under the Attorney-Client privilege. Subject to and without waiving the foregoing objections or the attorney-client privilege, Onsharp, to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 17:

All documents and things supporting Applicant's statement in paragraph 1 in its Answer to the Notice of Opposition in this proceeding.

RESPONSE TO REQUEST NO. 17:

The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. The request for production is overbroad. This request for production seeks proprietary and confidential business information. This request for production also seeks information protected under the Attorney-Client privilege. Subject to and without waiving the

foregoing objections or the attorney-client privilege, Onsharp, to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 18:

All documents and things supporting Applicant's statement in paragraph 2 in its Answer to the Notice of Opposition in this proceeding.

RESPONSE TO REQUEST NO. 18:

The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. The request for production is overbroad. This request for production seeks proprietary and confidential business information. This request for production also seeks information protected under the Attorney-Client privilege. Subject to and without waiving the foregoing objections or the attorney-client privilege, Onsharp, to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 19:

All documents and things supporting Applicant's statement in paragraph 3 in its Answer to the Notice of Opposition in this proceeding.

RESPONSE TO REQUEST NO. 19:

The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. The request for production is overbroad. This request for production seeks proprietary and confidential business information. This request for production also seeks information protected under the Attorney-Client privilege. Subject to and without waiving the

foregoing objections or the attorney-client privilege, Onsharp, to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 20:

All documents and things supporting Applicant's statement in paragraph 4 in its Answer to the Notice of Opposition in this proceeding.

RESPONSE TO REQUEST NO. 20:

The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. The request for production is overbroad. This request for production seeks proprietary and confidential business information. This request for production also seeks information protected under the Attorney-Client privilege. Subject to and without waiving the foregoing objections or the attorney-client privilege, Onsharp, to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 21:

All documents showing correspondence between Applicant and any advertising agency concerning any mark that includes the term SHARP.

RESPONSE TO REQUEST NO. 21:

The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. The request for production is overbroad and seeks irrelevant information or information not reasonably calculated to lead to the discovery of admissible evidence. The request for production is vague and ambiguous because Applicant's mark is ONSHARP which

cannot be dissected. This request for production seeks proprietary and confidential business information. Subject to and without waiving the foregoing objections or the attorney-client privilege, Onsharp, to the extent Onsharp understands this request and to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 22:

All documents showing correspondence between Applicant and any third parties relating to any mark that includes the term SHARP.

RESPONSE TO REQUEST NO. 22:

The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. The request for production is overbroad and seeks irrelevant information or information not reasonably calculated to lead to the discovery of admissible evidence. The request for production is vague and ambiguous because Applicant's mark is ONSHARP which cannot be dissected. This request for production seeks proprietary and confidential business information. Subject to and without waiving the foregoing objections or the attorney-client privilege, Onsharp, to the extent Onsharp understands this request and to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 23:

All documents relating to Applicant's plans to adopt and use the mark ONSHARP including without limitation, all proposals, resolutions, memoranda, correspondence, marketing opinions, artwork, press releases, mark search results and legal opinions in any country.

RESPONSE TO REQUEST NO. 23:

The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. The request for production is overbroad. This request for production seeks proprietary and confidential business information. This request for production also seeks information protected under the Attorney-Client privilege. Subject to and without waiving the foregoing objections or the attorney-client privilege, Onsharp, to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 24:

All documents tending to show the class of present or future purchasers or users of services or products, sold, offered or delivered, intended to be sold, offered or delivered with respect to the mark ONSHARP by the Applicant.

RESPONSE TO REQUEST NO. 24:

The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. The request for production is overbroad. This request for production seeks proprietary and confidential business information. This request for production also seeks information protected under the Attorney-Client privilege. Subject to and without waiving the foregoing objections or the attorney-client privilege, Onsharp, to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 25:

All documents expressing an opinion as to the likelihood of confusion, or absence thereof, between Applicant's use of the mark ONSHARP and Opposer's use of Opposer's SHARP Marks.

RESPONSE TO REQUEST NO. 25:

The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. The request for production is overbroad. The request for production is vague and ambiguous because Applicant does not understand what is meant by “SHARP Marks.” This request for production seeks proprietary and confidential business information. This request for production also seeks information protected under Attorney-Client privilege. Subject to and without waiving the foregoing objections or the attorney-client privilege, Onsharp, to the extent Onsharp understands this request and to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 26

All documents showing communications with manufacturers, wholesale establishment or retail establishments, or with their staffs concerning the sale or offer to sell by Applicant of any goods or services with respect to the mark ONSHARP.

RESPONSE TO REQUEST NO. 26:

The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. The request for production is overbroad. This request for production seeks proprietary and confidential business information. Applicant’s mark is ONSHARP which cannot be dissected. Subject to and without waiving the foregoing objections, Onsharp, to the extent Onsharp understands this request and to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 27:

All documents relating to the channels of trade through which Applicant's goods or services have been, are or intended to be sold or provided with respect to the ONSHARP mark.

RESPONSE TO REQUEST NO. 27:

The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. The request for production is overbroad. This request for production seeks proprietary and confidential business information. Applicant's mark is ONSHARP which cannot be dissected. This request for production also seeks information protected under Attorney-Client privilege. Subject to and without waiving the foregoing objections or the attorney-client privilege, Onsharp, to the extent Onsharp understands this request and to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 28:

All documents concerning any domain names owned or controlled by applicant that incorporate the term SHARP in any part of the domain name.

RESPONSE TO REQUEST NO. 28:

The request for production is overbroad and seeks irrelevant information or information not reasonably calculated to lead to the discovery of admissible evidence. The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. Subject to and without waiving the foregoing objections, Onsharp, to the extent Onsharp understands this request and to the extent the documents exist, will make the documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 29:

All documents concerning any application to register or any attempt to obtain by transfer any domain names by applicant that incorporate the term SHARP in any part of the domain name.

RESPONSE TO REQUEST NO. 29:

The request for production is overbroad and seeks irrelevant information or information not reasonably calculated to lead to the discovery of admissible evidence. The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. The request for production is vague and ambiguous because Applicant's mark is ONSHARP which cannot be dissected. This request for production also seeks information protected under the Attorney-Client privilege. Subject to and without waiving the foregoing objections or the attorney-client privilege, Onsharp, to the extent Onsharp understands this request and to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 30:

All documents concerning any communication of Applicant with a third party concerning Opposer, Opposer's SHARP Marks, or any goods or services provided by Opposer under Opposer's SHARP Marks.

RESPONSE TO REQUEST NO. 30:

The request for production is overbroad and seeks irrelevant information or information not reasonably calculated to lead to the discovery of admissible evidence. The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. The request for production is vague and ambiguous because Applicant's mark is ONSHARP which cannot be dissected. Applicant does not understand what is meant by the term "Opposer's

SHARP Marks.” This request for production also seeks information protected under the Attorney-Client privilege. Subject to and without waiving the foregoing objections or the attorney-client privilege, Onsharp, to the extent Onsharp understands this request and to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 31:

All documents concerning any use by Applicant of any keywords or online search terms that include that term SHARP.

RESPONSE TO REQUEST NO. 31:

The request for production is overbroad and seeks irrelevant information or information not reasonably calculated to lead to the discovery of admissible evidence. The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. The request for production is vague and ambiguous because Applicant’s mark is ONSHARP which cannot be dissected. Subject to and without waiving the foregoing objections, Onsharp, to the extent Onsharp understands this request and to the extent the documents exist, will make the documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 32:

A representative sample of service agreements provided by Applicant to any third party bearing any mark or trade name containing the term SHARP or used in connection with Applicants products or services involving those marks.

RESPONSE TO REQUEST NO. 32:

The request for production is overbroad and seeks irrelevant information or information not reasonably calculated to lead to the discovery of admissible evidence. The request for

production is burdensome, oppressive, and is unreasonably cumulative or duplicative. The request for production is vague and ambiguous because Applicant's mark is ONSHARP which cannot be dissected. This request for production seeks proprietary and confidential business information. Subject to and without waiving the foregoing objections or the attorney-client privilege, Onsharp, to the extent the documents exist, will make the non-confidential documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 33:

All documents that refer to, reflect, mention or discuss the meaning of the term that comprises the ONSHARP mark.

RESPONSE TO REQUEST NO. 33:

The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. This request for production seeks proprietary and confidential business information. This request for production also seeks information protected under the Attorney-Client privilege. Subject to and without waiving the foregoing objections or the attorney-client privilege, Onsharp, to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

REQUEST NO. 34:

To the extent not requested above, all documents referring or relating to the ONSHARP Mark.

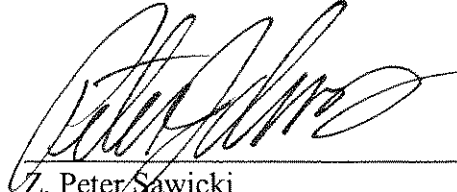
RESPONSE TO REQUEST NO. 34:

The request for production is burdensome, oppressive, and is unreasonably cumulative or duplicative. This request for production seeks proprietary and confidential business information.

This request for production also seeks information protected under the Attorney-Client privilege. Subject to and without waiving the foregoing objections or the attorney-client privilege, Onsharp, to the extent the documents exist, will make the non-confidential, non-privileged documents available for inspection and copying at the offices of Westman, Champlin & Kelly, P.A., 900 Second Avenue South, Suite 1400, Minneapolis, Minnesota, 55402.

Respectfully submitted,

Westman, Champlin & Kelly, P.A.

A handwritten signature in black ink, appearing to read 'Z. Peter Sawicki', is written over a horizontal line.

Dated: August 3, 2011

Z. Peter Sawicki
Peter J. Ims
Donika P. Pentcheva
900 Second Avenue South
Suite 1400
Minneapolis, Minnesota 55402-3319
Telephone: 612-334-3222
Facsimile: 612-334-3312

**ATTORNEYS FOR APPLICANT
ONSHARP, INC.**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SHARP KABUSHIKI KAISHA, a/t/a	)	Attorney Ref.: 790-2052
SHARP CORPORATION,)	
)	
Opposer,)	
)	
v.	)	Opposition No. 91190899
	)	Mark: ONSHARP
ONSHARP, INC.,	)	Application No. 77/645,273
)	
Applicant.)	

EXHIBIT D

TO

**OPPOSER'S MOTION TO COMPEL DISCOVERY
AND FOR ENTRY OF A MODIFIED PROTECTIVE ORDER**

represent Onsharp's reasonable effort to provide the information requested based upon information in its possession, custody, or control and based upon Onsharp's current knowledge. Onsharp reserves the right to produce evidence from any subsequently discovered fact or facts, to alter or amend its answers set forth herein, and otherwise to assert factual and legal contentions as additional facts are ascertained, analyses are made, and legal research is completed.

2. Onsharp objects to each and every Interrogatory in so far as it may be construed to limit or restrict Onsharp's right to rely upon any document or information for any purpose whatsoever, including but not limited to, the use of responsive documents or information as evidence at any subsequent hearing, trial, or other proceeding.

3. Onsharp objects to all the Interrogatories to the extent that they request information protected by any privilege, including but not limited to the attorney-client privilege or work-product doctrine, and Onsharp and its counsel hereby assert such privileges. In particular, Onsharp and its counsel assert such privileges as to letters, memoranda and other writings transmitted by or between Onsharp and its counsel, or writings prepared and maintained internally by Onsharp's counsel, which have not been disclosed to third parties, and are not included in these responses.

4. Onsharp objects to each interrogatory and document request to the extent that it is not limited to documents or information within Onsharp's possession, custody or control.

5. Onsharp will make reasonable efforts to respond to each Interrogatory to the extent that no objection is made, as Onsharp understands and interprets the Interrogatory. If JRFV subsequently asserts any interpretation of any Interrogatory, which differs from that of Onsharp, Onsharp reserves the right to supplement its objections and responses.

6. An indication that Onsharp will produce relevant documents, which it believes to be properly called for by a particular Interrogatory or Request for Production, does not necessarily imply the existence of the documents requested.

7. Onsharp objects to each and every Interrogatory to the extent that an Interrogatory calls for information which on its face does not relate to present opposition proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. To the extent objected to, these Interrogatories are overly broad and ambiguous, they seek the production of documents that are irrelevant to the subject matter of this matter and are not reasonably calculated to lead to the discovery of admissible evidence, and the production of such information would impose an undue burden and expense to Onsharp.

8. The general objections set forth above and the objections to specific Interrogatories set forth below are made as to the matters which are clearly objectionable from the face of the Interrogatories. These objections are made without prejudice to or waiver of Onsharp's right to object on all appropriate grounds to the production of specific categories of documents or information.

9. To the extent that an Interrogatory seeks confidential or proprietary business information, Onsharp objects to the production of such information without a protective order in place.

INTERROGATORY NO. 1.

Describe in detail the business of Applicant as it relates to the ONSHARP Mark and describe in detail the channels of trade that this business operates in, including a description of the person(s) who sell and resell or are intended to sell and resell the Applicant's products and services in connection with the ONSHARP Mark (including but not limited to licensees, distributors, retailers, jobbers and/or wholesalers) and the person(s) who purchase or are intended to purchase those products/services.

RESPONSE:

The interrogatory is overly broad and seeks irrelevant information or information not reasonably calculated to lead to the discovery of admissible evidence. This interrogatory request is burdensome, oppressive, and is unreasonably cumulative or duplicative. This interrogatory also seeks information protected under the Attorney-Client privilege. This interrogatory seeks confidential information which is not subject to the protection of a protective order. Upon execution and entry of a protective order, and subject to and without waiving the foregoing objections, Onsharp provides the services listed in the '273 application to businesses and individuals who request Onsharp's services.

INTERROGATORY NO. 2.

Identify each product and/or service that has been sold or offered for sale or is intended to be sold or offered for sale by Applicant or any person licensed or otherwise authorized by Applicant under the ONSHARP Mark.

RESPONSE:

The interrogatory is overly broad and seeks irrelevant information or information not reasonably calculated to lead to the discovery of admissible evidence. This interrogatory request is burdensome, oppressive, and is unreasonably cumulative or duplicative. Subject to and without waiving the foregoing objections, Onsharp states that it utilizes the ONSHARP mark for marketing services, namely, providing informational web pages designed to generate sales traffic via hyperlinks to other web sites; on-line advertising and marketing services; pay per click (PPC) advertising management services; computer services, namely, monitoring and reporting on the performance, availability, and errors of web sites of others; computer services, namely, creating and maintaining web sites for others; computer services, namely, designing and implementing

web sites for others; computer services, namely, managing web sites for others; computer services, namely, monitoring the web sites of others to improve scalability and performance of web sites of others; computer services, namely, search engine optimization; consultation services in the field of search engine optimization; creating, designing and maintaining web sites; creation and maintenance of web sites for others; design and development of on-line computer software systems; design of home pages, computer software and web sites; design, creation, hosting, maintenance of web sites for others; designing web sites for advertising purposes; displaying the web sites and images of others on a computer server; elaboration and maintenance of web sites for third parties; hosting the web sites of others; hosting the web sites of others on a computer server for a global computer network; IT consulting services; web site design; web site development for others; web site hosting services. The mark has been continuously used in commerce since at least as early as July 1, 2000.

INTERROGATORY NO. 3.

Describe in detail the precise manner in which the ONSHARP Mark has been used or is intended to be used on or in connection with each of the products and/or services described in response to Interrogatory No. 2.

RESPONSE:

The interrogatory is overly broad and seeks irrelevant information or information not reasonably calculated to lead to the discovery of admissible evidence. This interrogatory request is burdensome, oppressive, and is unreasonably cumulative or duplicative. Subject to and without waiving the foregoing objections, Onsharp refers SKK to the Response to Interrogatory No. 2.

INTERROGATORY NO. 4.

State the date of first use and the date of first use in commerce by Applicant of the ONSHARP Mark for each product and/or service identified in response to Interrogatory No. 2. In addition, describe in detail the circumstances of each such first use and first use in commerce.

RESPONSE:

The interrogatory is overly broad and seeks irrelevant information or information not reasonably calculated to lead to the discovery of admissible evidence. This interrogatory request is burdensome, oppressive, and is unreasonably cumulative or duplicative. This interrogatory also seeks information protected under the Attorney-Client privilege. Subject to and without waiving the foregoing objections, Onsharp refers SKK to the Response to Interrogatory No. 2.

INTERROGATORY NO. 5.

State whether Applicant was aware of the existence of Opposer and/or of Opposer's SHARP Marks at the time that Applicant selected the ONSHARP Mark.

RESPONSE:

The interrogatory is overly broad and seeks irrelevant information or information not reasonably calculated to lead to the discovery of admissible evidence. This interrogatory request is burdensome, oppressive, and is unreasonably cumulative or duplicative. This interrogatory seeks confidential information which is not subject to the protection of a protective order. This interrogatory also seeks information protected under the Attorney-Client privilege. Subject to and without waiving the foregoing objections, Onsharp states that Onsharp has vague knowledge that a corporation by the name of Sharp sold consumer electronic goods.

INTERROGATORY NO. 6.

Describe in detail the method used by Applicant to select the ONSHARP Mark, including, but

not limited to:

- (a) the date of the selection;
- (b) the reason for selecting the mark; and
- (c) any search report or search documents relating to the selection of the ONSHARP mark.

RESPONSE:

The interrogatory is overly broad and seeks irrelevant information or information not reasonably calculated to lead to the discovery of admissible evidence. This interrogatory request is burdensome, oppressive, and is unreasonably cumulative or duplicative. This interrogatory also seeks information protected under the Attorney-Client privilege. This interrogatory seeks confidential information which is not subject to the protection of a protective order. Upon execution and entry of a protective order, Onsharp will provide a summary of the requested information that is within Onsharp's possession, custody and control. Subject to and without waiving the foregoing objections, Onsharp states it selected the name because it was relatively short in length which is beneficial when selecting a domain name. Applicant states that there is no connection between the ONSHARP mark and its services.

INTERROGATORY NO. 7.

Identify each advertisement relating to Applicant's goods/services sold or offered for sale with respect to the ONSHARP Mark and also state for each advertisement:

- (a) the inclusive dates during which it was published; and
- (b) the publications in which it appeared.

RESPONSE:

The interrogatory is overly broad and seeks irrelevant information or information not reasonably calculated to lead to the discovery of admissible evidence. This interrogatory request is burdensome, oppressive, and is unreasonably cumulative or duplicative. Subject to and without waiving the foregoing objections, Onsharp states it promotes its services on its website,

local radio advertisements, mailers and e-mail communications.

INTERROGATORY NO. 8.

Identify each kind of promotional material (including, but not limited to, catalogues, brochures, posters, sales sheets, point of purchase displays, fliers, television advertising, web pages and price lists) which refer to Applicant's products/services, sold or offered for sale with respect to the ONSHARP Mark. As for each such item, state the inclusive dates during which the item or promotional material was or is currently distributed.

RESPONSE:

The interrogatory is overly broad and seeks irrelevant information or information not reasonably calculated to lead to the discovery of admissible evidence. This interrogatory request is burdensome, oppressive, and is unreasonably cumulative or duplicative. Subject to and without waiving the foregoing objections, Onsharp refers SKK to the Response to Interrogatory No. 7.

INTERROGATORY NO. 9.

State Applicant's advertising and promotional expenditures for products or services sold by Applicant in connection with the ONSHARP Mark for each year in which the products/services have been sold or offered for sale.

RESPONSE:

The interrogatory is overly broad and seeks irrelevant information or information not reasonably calculated to lead to the discovery of admissible evidence. This interrogatory request is burdensome, oppressive, and is unreasonably cumulative or duplicative. This interrogatory seeks confidential information which is not subject to the protection of a protective order. Upon execution and entry of a protective order, Onsharp will provide a summary of the requested information that is within Onsharp's possession, custody and control.

INTERROGATORY NO. 10.

State Applicant's sales (in units and dollars) of products/services sold under the ONSHARP Mark for each year in which the products/services have been sold or offered for sale.

RESPONSE:

The interrogatory is overly broad and seeks irrelevant information or information not reasonably calculated to lead to the discovery of admissible evidence. This interrogatory request is burdensome, oppressive, and is unreasonably cumulative or duplicative. This interrogatory seeks confidential information which is not subject to the protection of a protective order. Upon execution and entry of a protective order, Onsharp will provide a summary of the requested information that is within Onsharp's possession, custody and control.

INTERROGATORY NO. 11.

Identify each search, clearance or other inquiry conducted by or on behalf of Applicant regarding any mark containing the term "SHARP" and also state:

- (a) the date upon which each such search, clearance or other inquiry was conducted;
- (b) the person who conducted each such search, clearance or other inquiry;
- (c) the person who authorized each such search, clearance or other inquiry; and
- (d) the name or location of each set of records searched.

RESPONSE:

The interrogatory is vague and ambiguous. This interrogatory request is burdensome, oppressive, and is unreasonably cumulative or duplicative. This interrogatory also seeks information protected under the Attorney-Client privilege. This interrogatory seeks confidential information which is not subject to the protection of a protective order. Subject to and without waiving the above objections and upon execution and entry of a protective order, Onsharp will provide the requested, non-privileged information. However, Applicant's mark is ONSHARP which cannot be dissected.

INTERROGATORY NO. 12.

State whether Applicant is aware of any instance(s) in which any person

- (a) has, by words, deeds or otherwise, suggested a belief that Applicant is licensed, sponsored by or otherwise associated with Opposer;
- (b) has, by words, deeds or otherwise, suggested a belief that Applicant's products or services identified by any mark containing the term "SHARP" are offered under the control of, or are associated with Opposer;
- (c) has been in any way confused, mistaken or deceived as to the origin or sponsorship of the goods or services sold or offered for sale by Applicant under any mark containing the term "SHARP," including "ONSHARP."

RESPONSE:

The interrogatory is vague and ambiguous. Applicant's mark is ONSHARP which cannot be dissected. Subject to and without waiving the above objections, Onsharp states that it's not aware of any such instances.

INTERROGATORY NO. 13.

If the answer to any aspect of the foregoing interrogatory is in the affirmative, describe the circumstances of each such instance and the identity of each person who has knowledge of or participated in each instance.

RESPONSE:

The interrogatory is overly broad and seeks irrelevant information or information not reasonably calculated to lead to the discovery of admissible evidence. This interrogatory request is burdensome, oppressive, and is unreasonably cumulative or duplicative. This interrogatory also seeks information protected under the Attorney-Client privilege. This interrogatory seeks confidential information which is not subject to the protection of a protective order. Subject to and without waiving the foregoing objections, Onsharp refers SKK to the Response to Interrogatory No. 12.

INTERROGATORY NO. 14.

Identify all Internet search engine keywords purchased by Applicant or Applicant's behalf that include the term SHARP.

RESPONSE:

The interrogatory request is vague and ambiguous. Subject to and without waiving the foregoing objections, Onsharp states that its mark is ONSHARP which cannot be dissected and that one of its keywords is ONSHARP.

INTERROGATORY NO. 15.

Describe in detail the market to which Applicant's goods or services offered or rendered under or in connection with the ONSHARP Mark are targeted or directed.

RESPONSE:

The interrogatory is overly broad and seeks irrelevant information or information not reasonably calculated to lead to the discovery of admissible evidence. This interrogatory request is burdensome, oppressive, and is unreasonably cumulative or duplicative. This interrogatory also seeks information protected under the Attorney-Client privilege. This interrogatory seeks confidential information which is not subject to the protection of a protective order. Upon execution and entry of a protective order, and subject to and without waiving the foregoing objections, Onsharp states that Onsharp markets its services to business and individuals requesting Onsharp's services.

INTERROGATORY NO. 16.

Describe all communications Applicant has received from any third party mentioning Opposer or Opposer's SHARP Marks.

RESPONSE:

The request for production is vague and ambiguous. The term "Opposer's SHARP Marks" used by SKK's attorneys is an undefined term. Subject to and without waiving the foregoing objections, Onsharp states that it has never received any communications from any third parties regarding SKK or the SHARP mark.

Respectfully submitted,

AS TO FACTS:

Dated: 8-3-2011



Joseph Sandin

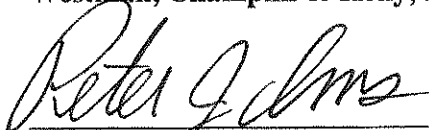
President

Title

AS TO OBJECTIONS:

Dated: August 3, 2011

Westman, Champlin & Kelly, P.A.



Z. Peter Sawicki

Peter J. Irls

Donika P. Pentcheva

900 Second Avenue South

Suite 1400

Minneapolis, Minnesota 55402-3319

Telephone: 612-334-3222

Facsimile: 612-334-3312

**ATTORNEYS FOR APPLICANT
ONSHARP, INC.**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SHARP KABUSHIKI KAISHA, a/t/a	)	Attorney Ref.: 790-2052
SHARP CORPORATION,)	
)	
Opposer,)	
)	
v.	)	Opposition No. 91190899
	)	Mark: ONSHARP
ONSHARP, INC.,	)	Application No. 77/645,273
)	
Applicant.)	

EXHIBIT E

TO

**OPPOSER'S MOTION TO COMPEL DISCOVERY
AND FOR ENTRY OF A MODIFIED PROTECTIVE ORDER**

Nixon & Vanderhye P.C.

ATTORNEYS AT LAW

11TH FLOOR
901 NORTH GLEBE ROAD
ARLINGTON, VIRGINIA 22203-1808
UNITED STATES OF AMERICA

August 10, 2011

TELEPHONE: (703) 816-4000
FACSIMILE: (703) 816-4100
WRITER'S DIRECT DIAL NUMBER:
(703) 816-4063
E-MAIL: sld@NIXONVAN.COM

VIA EMAIL/THEN FIRST CLASS MAIL

Donika P. Pentcheva, Esq.
Pete Ims, Esq.
Westman, Champlin & Kelly, P.A.
900 Second Avenue South, Suite 1400
Minneapolis, MN 55402

Subject: Trademark Opposition No. 91190899
Our Ref.: 790-2052

Dear Ms. Pentcheva and Mr. Ims,

We have reviewed your responses to "Opposer's First Set of Interrogatories to Applicant," "Opposer's First Request for Production of Documents and Things" and "Opposer's First Set of Requests for Admissions to Applicant" served on August 3, 2011. In accordance with Trademark Rule 2.120(e), we note the following deficiencies and request that applicant promptly cure its inadequate responses.

I. Document Requests

In particular, in your responses to Document Request Nos. 1-8 and 12-34 you have made objections that the document requests are burdensome, oppressive, unreasonably cumulative or duplicative, overbroad and/or seeking irrelevant information or information not reasonably calculated to lead to the discovery of admissible evidence. However, you have not explained these objections. Opposer does not need duplicative documents. Please provide the basis for these objections or delete them.

In your responses to Document Request Nos. 2-15, 21, 22, 29, 31 and 32, you state that "Applicant's mark is ONSHARP which cannot be dissected." To the extent that Document Requests Nos. 2-15, 21, 22, 29, 31 and 32 ask for documents pertaining to any mark that contains the term SHARP, your objection is not well taken, since the entire term SHARP is incorporated in the mark ONSHARP. As you must be aware, many cases find that a mark that contains the entirety of a prior mark can be a factor leading to a likelihood of confusion. *See e.g., Hunt Control Systems Inc. v. Koninklijke Philips Electronics N.V.*, 98 USPQ2d 1558 (TTAB 2011) ("When one incorporates the entire arbitrary mark of another into a composite mark, the inclusion of a significant, non-suggestive element will not necessarily preclude a likelihood of confusion."). *See also, In re Pierre Fabre S.A.*, 188 USPQ 691 (TTAB 1987) (PEDI-RELAX for foot cream held likely to be confused with RELAX for antiperspirant).

Additionally, although the marks at issue must be considered in their entireties, it is well-settled that one feature of a mark may be found to be more significant than another in terms of the mark's function as a source indicator, and it is appropriate to give more weight to this dominant feature in determining the commercial impression created by the mark, and in comparing the marks at issue under the first *du Pont* factor. See *In re Chatam International Inc.*, 380 F.3d 1340, 71 USPQ2d 1944, 1946 (Fed. Cir. 2004). If you are going to withhold documents based on the above identified objection in your responses, please advise so we can take this up with the Board.

You objected in your responses to Documents Request Nos. 2-5, 12 and 13 to the meaning of "similar term." To clarify, "similar term" means any terms or symbols that include the term SHARP or a term that is visually or phonetically similar to SHARP (such as SCHARP, SHARC, SHARPA, etc.). This is a standard phrase in trademark law and its common meaning cannot be appropriately avoided. Again, if you do not promptly agree to this meaning we intend to go to the Board.

With regard to your objection in response to Document Request No. 25 as to the meaning of "SHARP Marks," please see the definition "D" provided for "Opposer's SHARP Marks" set forth in "Opposer's First Set of Interrogatories to Applicant." Obviously, your objection is bogus and if you do not promptly agree to this meaning we intend to go to the Board.

Your responses to Document Request Nos. 26, 27 and 30 include an objection about dissection of the mark ONSHARP, however, the mark set out in the requests is ONSHARP. Please explain this objection or remove it. See also, the comments above re requests Nos. 2-15, 21, 22, 29, 31 and 32. Obviously, your objection is bogus and if you do not cure it we intend to go to the Board.

With regard to your objection in response to Document Request Nos. 9, 11 and 30 as to the meaning of "Opposer's SHARP Marks," please see the definition "D" provided for "Opposer's SHARP Marks" set forth in "Opposer's First Set of Interrogatories to Applicant." Obviously, your objection is bogus and if you do not cure it we intend to go to the Board.

With regard to your objection in your response to Document Request No. 6 as to the meaning of "under such SHARP marks," please refer to part 6(2) of that Request.

With regard to your response to Document Request Nos. 12, 13, 14 and 15 please explain why you believe that our client or its attorneys have possession, custody and control of the information requested. The requests clearly encompass your client's information related to the ONSHARP mark and any variations of that mark. Sharp is entitled to Applicant's documents whether we have documents or not. If you do not cure these objections, we intend to go to the Board.

Also, with regard to your response to Document Request No. 14 and 15 you claim to not understand what is meant by "any mark containing the term SHARP." To clarify, "any mark containing the term SHARP" includes any mark containing the letters SHARP in that order, which clearly encompasses the mark ONSHARP. If you do not promptly agree to this meaning we intend to go to the Board.

With regard to all of the documents requests, we understand that you are withholding confidential documents until after the protective order is entered. We await your response to our protective order proposal.

Regarding the production or inspection of non-confidential documents, we suggest that the parties provide copies of the documents to each other in accordance with standard practice in Board proceedings instead of making them available for inspection at remote locations to counsel. Please let us know if you agree. Alternatively, would you please let us know the order of magnitude of Onsharp's responsive documents in terms of estimated number of pages or "banker's boxes" so that we can determine how to proceed.

II. Interrogatories

In Interrogatory No. 1 Applicant was asked to provide a description in detail of the channels of trade including the persons who sell and resell or are intended to sell and resell Applicants products and service. This information is missing. Applicant must provide the requested information or we intend to go to the Board.

In response to Interrogatory No 3, you merely refer to your answer to Interrogatory No. 2. However, this is nonresponsive. Interrogatory No. 3 raises a different question than Interrogatory no. 2. Interrogatory No. 3 asks about the manner in which the mark has been used on the identified services, rather than an identification of the products or services. Please supplement your response to Interrogatory No. 3 or we intend to go to the Board.

Your response to Interrogatory No. 4 includes a reference to Interrogatory No. 2 as to the date of first use ("The mark has been continuously used in commerce since at least as early as July 1, 2000"). Please supplement this response to indicate whether that statement applies to each of the services identified in response to Interrogatory No. 2, as requested in Interrogatory No. 4. Interrogatory No. 4 also asks for details of the circumstance of each first use. Applicant must provide this information or we intend to go to the Board.

With regard to your responses to Interrogatory Nos. 6, 9, 10 and 11 we await your comments to the protective order.

In Interrogatory No. 8, Opposer requested the dates during which Applicant's promotional materials were/are distributed. You did not respond. We request that you provide this information or we intend to go to the Board.

In Interrogatory Nos. 11, 12 and 14, this is to clarify that the requests cover any mark (or keyword in the case of No. 14) containing the term "SHARP," which would include the mark (or keyword in the case of No. 14) ONSHARP since ONSHARP includes SHARP in its entirety. Your objection to these requests that your client's mark is ONSHARP which cannot be dissected does not relieve your of the obligation to provide the information requested in these interrogatories. If you withhold information on this basis, we intend to go to the Board.

With regard to your response to Interrogatory No. 14, you indicate that "one of its keywords is ONSHARP." Please confirm that the only keyword purchased by Applicant or on Applicant's behalf that includes the term SHARP is ONSHARP.

III. Admissions

Your objection in Admission Request Nos. 8-12 to the meaning of “SHARP Marks” is not well taken, since the full term “Opposer’s SHARP Marks” is a term defined in our requests. See definition No. 4. Please cure this defective response or we intend to go to the Board.

In response to your objection to the meaning of “educational institution” in Admission Request No. 9, we note that “educational institution” has a common ordinary meaning, *i.e.*, an institution dedicated to education. Please cure this defective response or we intend to go to the Board.

In response to your objection to the meaning of “commercial market” in Admission Request No. 11, we also note the common ordinary meaning, *i.e.* sale of products and services to end users and public and private companies, rather than to governmental agencies. Please cure this defective response or we intend to go to the Board.

Regarding your objections in Admission Request Nos. 20-22, 55- 60, 86, 89, 90 and 92-94, as to relevance of certain registrations that were not expressly asserted, the objections are not well taken because (1) the Notice of Opposition asserted Opposer’s “‘family’ of related SHARP marks” (e.g., Notice of Opposition, ¶¶ 1 and 2); and (2) we are permitted to take discovery not only as to matters specifically raised in the pleadings, but also as to any matter which might serve as the basis for an additional claim. *See e.g.*, TBMP 402.01. Please cure these defective responses or we intend to go to the Board.

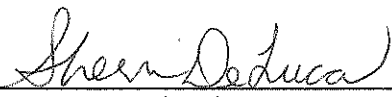
In Admission Requests Nos. 43-54 and 61-84, Opposer requested that Applicant state whether certain marks were similar in sound or appearance. Applicant objected to these requests as “seeking a legal conclusion.” This objection is again unfounded. Similarity in sound or appearance is an underlying issue of fact for determining the ultimate issue of law. *In re Dixie Rest., Inc.*, 105 F.3d 1405, 1406 (Fed. Cir. 1997). Regardless, we may ask about facts, the application of law to fact, or opinions about either. Fed.R.Civ.P. 36. Please cure these defective responses or we intend to go to the Board.

In response to Request for Admission No. 129, we request that you please explain the denial that “Opposer’s mark SHARP has been included in the entirety in the mark ONSHARP.” Please cure this defective response or we will go to the Board.

In view of the need to review each other’s documents and the upcoming close of discovery on September 4, we request an extension of the discovery period for 90 days. We also demand a complete response to this letter by August 17th. In the absence we intend to go to the Board.

Very truly yours,

NIXON & VANDERHYE P.C.

By: 
Sherri De Luca

Enclosure(s)
cc: Robert W. Adams, Esq.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SHARP KABUSHIKI KAISHA, a/t/a	)	Attorney Ref.: 790-2052
SHARP CORPORATION,)	
)	
Opposer,)	
)	
v.	)	Opposition No. 91190899
	)	Mark: ONSHARP
ONSHARP, INC.,	)	Application No. 77/645,273
)	
Applicant.)	

EXHIBIT F

TO

**OPPOSER'S MOTION TO COMPEL DISCOVERY
AND FOR ENTRY OF A MODIFIED PROTECTIVE ORDER**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SHARP KABUSHIKI KAISHA, a/t/a	)	Attorney Ref.: 790-2052
SHARP CORPORATION,)	
)	
Opposer,)	
)	
v.	)	Opposition No. 91190899
	)	Mark: ONSHARP
ONSHARP, INC.,	)	Application No. 77/645,273
)	
Applicant.)	

**PROVISIONS FOR PROTECTING
CONFIDENTIALITY OF INFORMATION
REVEALED DURING BOARD PROCEEDING**

Information disclosed by any party or non-party witness during this proceeding may be considered confidential, a trade secret, or commercially sensitive by a party or witness. To preserve the confidentiality of the information so disclosed, either the parties have agreed to be bound by the terms of this order, in its standard form or as modified by agreement, and by any additional provisions to which they may have agreed and attached to this order, or the Board has ordered that the parties be bound by the provisions within. As used in this order, the term "information" covers both oral testimony and documentary material.

Agreement of the parties is indicated by the signatures of the parties' attorneys and the parties themselves at the conclusion of the order. Imposition of the terms by the Board is indicated by signature of a Board attorney or Administrative Trademark Judge at the conclusion of the order. If the parties have signed the order, they may have created a contract. The terms are binding from the date the parties or their attorneys sign the order.

TERMS OF ORDER

1) Classes of Protected Information.

The Rules of Practice in Trademark Cases provide that all *inter partes* proceeding files, as well as the involved registration and application files, are open to public inspection. The terms of this order are not to be used to undermine public access to files. When

appropriate, however, a party or witness, on its own or through its attorney, may seek to protect the confidentiality of information by employing one of the following designations.

Confidential -Material to be shielded by the Board from public access.

Highly Confidential -Material which is particularly sensitive such as any non-public material that contains trade secrets or confidential commercial, financial or business information, the public disclosure of which may have an adverse effect on the commercial, business or financial position of the person producing it, to be shielded by the Board from public access, restricted from any access by the parties and their in-house attorneys or legal department employees; however, to be made available for review by outside counsel for the parties and, subject to the provisions of paragraph 4 and 5, by independent experts or consultants for the parties.

2) Information Not to Be Designated as Protected.

Information may not be designated as subject to any form of protection if it (a) is, or becomes, public knowledge, as shown by publicly available writings, other than through violation of the terms of this document; (b) is acquired by a non-designating party or non-party witness from a third party lawfully possessing such information and having no obligation to the owner of the information; (c) was lawfully possessed by a non-designating party or non-party witness prior to the opening of discovery in this proceeding, and for which there is written evidence of the lawful possession; (d) is disclosed by a non-designating party or non-party witness legally compelled to disclose the information; or (e) is disclosed by a non-designating party with the approval of the designating party.

3) Access to Protected Information.

The provisions of this order regarding access to protected information are subject to modification by written agreement of the parties or their attorneys, or by motion filed with and approved by the Board.

Judges, attorneys, and other employees of the Board are bound to honor the parties' designations of information as protected but are not required to sign forms acknowledging the terms and existence of this order. Court reporters, stenographers, video technicians or others who may be employed by the parties or their attorneys to perform services incidental to this proceeding will be bound only to the extent that the parties or their attorneys make it a condition of employment or obtain agreements from such individuals, in accordance with the provisions of paragraph 4.

- **Parties** are defined as including individuals, officers of corporations, partners of partnerships, and management employees of any type of business organization.
- **Attorneys for parties** are defined as including (a) designated in-house counsel or legal department employees of a party (i.e., for Opposer

_____; and for Applicant: _____) and (b) outside counsel, including outside support staff operating under outside counsel's direction, such as paralegals or legal assistants, secretaries, and any other employees or independent contractors operating under outside counsel's instruction. However, Attorneys for Applicant (in-house or outside counsel) may not include Toni M. Sandin or Sandin Law, Ltd. or any other person affiliated with an employee of Onsharp, Inc. (e.g., married).

- **Independent experts or consultants** include individuals retained by a party for purposes related to prosecution or defense of the proceeding but who are not otherwise employees of either the party or its attorneys.
- **Non-party witnesses** include any individuals to be deposed during discovery or trial, whether willingly or under subpoena issued by a court of competent jurisdiction over the witness.

Parties and their **attorneys** shall have access to information designated as **Confidential**, subject to any agreed exceptions.

Outside counsel, but not in-house counsel, shall have access to information designated as **Highly Confidential**.

Independent experts or consultants, non-party witnesses, and any other individual not otherwise specifically covered by the terms of this order may be afforded access to **Confidential** information in accordance with the terms that follow in paragraph 4. Further, **independent experts or consultants** may have access to **Highly Confidential** information if such access is agreed to by the parties or ordered by the Board, in accordance with the terms that follow in paragraph 4 and 5.

4) Disclosure to Any Individual.

Prior to disclosure of protected information by any party or its attorney to any individual not already provided access to such information by the terms of this order, the individual shall be informed of the existence of this order and provided with a copy to read. The individual will then be required to certify in writing that the order has been read and understood and that the terms shall be binding on the individual. No individual shall receive any protected information until the party or attorney proposing to disclose the information has received the signed certification from the individual. A form for such certification is attached to this order. The party or attorney receiving the completed form shall retain the original.

5) Disclosure to Independent Experts or Consultants.

In addition to meeting the requirements of paragraph 4, any party or attorney proposing to share disclosed information with an independent expert or consultant must also notify

the party which designated the information as protected. Notification must be personally served or forwarded by certified mail, return receipt requested, and shall provide notice of the name, address, occupation and professional background of the expert or independent consultant.

The party or its attorney receiving the notice shall have ten (10) business days to object to disclosure to the expert or independent consultant. If objection is made, then the parties must negotiate the issue before raising the issue before the Board. If the parties are unable to settle their dispute, then it shall be the obligation of the party or attorney proposing disclosure to bring the matter before the Board with an explanation of the need for disclosure and a report on the efforts the parties have made to settle their dispute. The party objecting to disclosure will be expected to respond with its arguments against disclosure or its objections will be deemed waived.

6) Responses to Written Discovery.

Responses to interrogatories under Federal Rule 33 and requests for admissions under Federal Rule 36, and which the responding party reasonably believes to contain protected information shall be prominently stamped or marked with the appropriate designation from paragraph 1. Any inadvertent disclosure without appropriate designation shall be remedied as soon as the disclosing party learns of its error, by informing all adverse parties, in writing, of the error. The parties should inform the Board only if necessary because of the filing of protected information not in accordance with the provisions of paragraph 12.

7) Production of Documents.

If a party responds to requests for production under Federal Rule 34 by making copies and forwarding the copies to the inquiring party, then the copies shall be prominently stamped or marked, as necessary, with the appropriate designation from paragraph 1. If the responding party makes documents available for inspection and copying by the inquiring party, all documents shall be considered protected during the course of inspection. After the inquiring party informs the responding party what documents are to be copied, the responding party will be responsible for prominently stamping or marking the copies with the appropriate designation from paragraph 1. Any inadvertent disclosure without appropriate designation shall be remedied as soon as the disclosing party learns of its error, by informing all adverse parties, in writing, of the error. The parties should inform the Board only if necessary because of the filing of protected information not in accordance with the provisions of paragraph 12.

8) Depositions.

Protected documents produced during a discovery deposition, or offered into evidence during a testimony deposition shall be orally noted as such by the producing or offering party at the outset of any discussion of the document or information contained in the

document. In addition, the documents must be prominently stamped or marked with the appropriate designation.

During discussion of any non-documentary protected information, the interested party shall make oral note of the protected nature of the information.

The transcript of any deposition and all exhibits or attachments shall be considered protected for 30 days following the date of service of the transcript by the party that took the deposition. During that 30-day period, either party may designate the portions of the transcript, and any specific exhibits or attachments, that are to be treated as protected, by electing the appropriate designation from paragraph 1. Appropriate stampings or markings should be made during this time. If no such designations are made, then the entire transcript and exhibits will be considered unprotected.

9) Filing Notices of Reliance.

When a party or its attorney files a notice of reliance during the party's testimony period, the party or attorney is bound to honor designations made by the adverse party or attorney, or non-party witness, who disclosed the information, so as to maintain the protected status of the information.

10) Briefs.

When filing briefs, memoranda, or declarations in support of a motion, or briefs at final hearing, the portions of these filings that discuss protected information, whether information of the filing party, or any adverse party, or any non-party witness, should be redacted. The rule of reasonableness for redaction is discussed in paragraph 12 of this order.

11) Handling of Protected Information.

Disclosure of information protected under the terms of this order is intended only to facilitate the prosecution or defense of this case. The recipient of any protected information disclosed in accordance with the terms of this order is obligated to maintain the confidentiality of the information and shall exercise reasonable care in handling, storing, using or disseminating the information.

12) Redaction; Filing Material With the Board.

When a party or attorney must file protected information with the Board, or a brief that discusses such information, the protected information or portion of the brief discussing the same should be redacted from the remainder. A rule of reasonableness should dictate how redaction is effected.

Redaction can entail merely covering a portion of a page of material when it is copied in anticipation of filing but can also entail the more extreme measure of simply filing the

entire page under seal as one that contains primarily confidential material. If only a sentence or short paragraph of a page of material is confidential, covering that material when the page is copied would be appropriate. In contrast, if most of the material on the page is confidential, then filing the entire page under seal would be more reasonable, even if some small quantity of non-confidential material is then withheld from the public record. Likewise, when a multi-page document is in issue, reasonableness would dictate that redaction of the portions or pages containing confidential material be effected when only some small number of pages contain such material. In contrast, if almost every page of the document contains some confidential material, it may be more reasonable to simply submit the entire document under seal. **Occasions when a whole document or brief must be submitted under seal should be very rare.**

Protected information, and pleadings, briefs or memoranda that reproduce, discuss or paraphrase such information, shall be filed with the Board under seal. The envelopes or containers shall be prominently stamped or marked with a legend in substantially the following form:

CONFIDENTIAL

This envelope contains documents or information that are subject to a protective order or agreement. The confidentiality of the material is to be maintained and the envelope is not to be opened, or the contents revealed to any individual, except by order of the Board.

13) Acceptance of Information; Inadvertent Disclosure.

Acceptance by a party or its attorney of information disclosed under designation as protected shall not constitute an admission that the information is, in fact, entitled to protection. Inadvertent disclosure of information which the disclosing party intended to designate as protected shall not constitute waiver of any right to claim the information as protected upon discovery of the error.

14) Challenges to Designations of Information as Protected.

If the parties or their attorneys disagree as to whether certain information should be protected, they are obligated to negotiate in good faith regarding the designation by the disclosing party. If the parties are unable to resolve their differences, the party challenging the designation may make a motion before the Board seeking a determination of the status of the information.

A challenge to the designation of information as protected must be made substantially contemporaneous with the designation, or as soon as practicable after the basis for challenge is known. When a challenge is made long after a designation of information as protected, the challenging party will be expected to show why it could not have made the challenge at an earlier time.

The party designating information as protected will, when its designation is timely challenged, bear the ultimate burden of proving that the information should be protected.

15) Board's Jurisdiction; Handling of Materials After Termination.

The Board's jurisdiction over the parties and their attorneys ends when this proceeding is terminated. A proceeding is terminated only after a final order is entered and either all appellate proceedings have been resolved or the time for filing an appeal has passed without filing of any appeal.

The parties may agree that archival copies of evidence and briefs may be retained, subject to compliance with agreed safeguards. Otherwise, within 30 days after the final termination of this proceeding, the parties and their attorneys shall return to each disclosing party the protected information disclosed during the proceeding, and shall include any briefs, memoranda, summaries, and the like, which discuss or in any way refer to such information. In the alternative, the disclosing party or its attorney may make a written request that such materials be destroyed rather than returned.

16) Other Rights of the Parties and Attorneys.

This order shall not preclude the parties or their attorneys from making any applicable claims of privilege during discovery or at trial. Nor shall the order preclude the filing of any motion with the Board for relief from a particular provision of this order or for additional protections not provided by this order.

By Agreement of the Following, effective: _____

APPLICANT, ONSHARP, INC.

[name and title of individual signing for Applicant]

Donika P. Pentcheva
WESTMAN CHAMPLIN & KELLY PA
900 Second Avenue South, Suite 1400
Minneapolis, MN 55402
Attorneys for Applicant

OPPOSER, SHARP KABUSHIKI KAISHA, a/t/a SHARP CORPORATION

[name and title of individual signing for Opposer]

Robert W. Adams
Sheryl De Luca
NIXON & VANDERHYE P.C.
901 N. Glebe Road, 11th Floor
Arlington, Virginia 22203
Attorneys for Opposer

By Order of the Board, effective _____.

[name and title of Board attorney or judge imposing order]

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SHARP KABUSHIKI KAISHA, a/t/a	)	Attorney Ref.: 790-2052
SHARP CORPORATION,)	
)	
Opposer,)	
)	
v.	)	Opposition No. 91190899
	)	Mark: ONSHARP
ONSHARP, INC.,	)	Application No. 77/645,273
)	
Applicant.)	

EXHIBIT G

TO

**OPPOSER'S MOTION TO COMPEL DISCOVERY
AND FOR ENTRY OF A MODIFIED PROTECTIVE ORDER**

North Dakota

nd.gov Official Portal for
North Dakota State Government

SECRETARY OF STATE NORTH DAKOTA

[Home](#) | [Business Records Search](#)

ONSHARP, INC.

Corporation Details

System ID: 22817300 **Phone:** (701) 356-9010
Type: BUSINESS CORPORATION
Status: Active & Good Standing
Original File Date: 12/29/2006 **Effective Date:** 12/29/2006
State of Origin: North Dakota

Nature of Business

PROVIDE TECHNOLOGY CONSULTING SERVICES

Principal Office

474 45TH STREET S PO BOX 1585 FARGO, ND 58107-1585

Registered Agent

JOSEPH M SANDIN
2214 ROSE CREEK BLVD
FARGO, ND 58104-6874
Established Date: Dec 29, 2006

Authorized Shares

Class	Number	Par Value
COM VT	50000.000000	\$.010000

Generate an Annual Report To File

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SHARP KABUSHIKI KAISHA, a/t/a	)	Attorney Ref.: 790-2052
SHARP CORPORATION,)	
)	
Opposer,)	
)	
v.	)	Opposition No. 91190899
	)	Mark: ONSHARP
ONSHARP, INC.,	)	Application No. 77/645,273
)	
Applicant.)	

EXHIBIT H

TO

**OPPOSER'S MOTION TO COMPEL DISCOVERY
AND FOR ENTRY OF A MODIFIED PROTECTIVE ORDER**

North Dakota

nd.gov Official Portal for
North Dakota State Government

SECRETARY OF STATE NORTH DAKOTA

[Home](#) | [Business Records Search](#)

SANDIN LAW, LTD

Corporation Details

System ID: 25999500**Phone:** (701) 356-9030**Type:** PROFESSIONAL CORPORATION**Status:** Active & Good Standing**Original File Date:** 08/28/2009**Effective Date:** 09/01/2009**State of Origin:** North Dakota

Nature of Business

PRACTICE OF LAW

Principal Office

474 45TH ST S FARGO, ND 58103-0916

Registered Agent

TONI M SANDIN

474 45TH ST S

FARGO, ND 58103-0916

Established Date: Sep 01, 2009

Authorized Shares

Class	Number	Par Value
COM VT	50000.000000	\$.010000

Generate an Annual Report To File

To Generate a Annual Report form to be filed with the Secretary of State, select the appropriate year of the report you intend to file. This report does not contain details of a report previously filed with the Secretary of State. The annual report years reflected are an indication of the various report forms available in this site and is not an indication that an entity needs to file reports for all years. Missing years indicate that the forms for the missing year have not yet been deployed to the website, or have already been removed, and can be obtained by contacting the Secretary of State.

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We use Secure Sockets Layer (SSL) encryption technology to ensure your information is secure and protected.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SHARP KABUSHIKI KAISHA, a/t/a	)	Attorney Ref.: 790-2052
SHARP CORPORATION,)	
)	
Opposer,)	
)	
v.	)	Opposition No. 91190899
	)	Mark: ONSHARP
ONSHARP, INC.,	)	Application No. 77/645,273
)	
Applicant.)	

EXHIBIT I

TO

**OPPOSER'S MOTION TO COMPEL DISCOVERY
AND FOR ENTRY OF A MODIFIED PROTECTIVE ORDER**

No information has been provided to support the allegation of dilution. Again, if Sharp does not provide this information prior to **August 4, 2011**, my client will be forced to compel production of the requested information.

MISCELLANEOUS ISSUES

In the Response to Interrogatory No. 11, Sharp fails to provide any evidence that the "ON" in the single work ONSHARP mark is generic or descriptive. Further, Applicant requests that Sharp provide the factual and legal basis that allows for the parsing of a single work mark as alleged in paragraph 6 of the Notice of Opposition.

Onsharp also objects to the allegation that "any other person" is not relevant in this case as alleged in Response to Interrogatory No. 6. Specifically, this relates to *du Pont* factor number 6, the number and nature of similar marks in use on similar goods. Further Onsharp is puzzled by Sharp's allegation that an interrogatory relating to actual confusion would be "misleading" as it also served interrogatory 12 and 13 which have a similar content. Further, in the event that there were instances of actual confusion, Onsharp is entitled to this information because a mark that is confused with the marks alleged to be famous would by definition dilute the allegedly famous marks. Further, this information would also be relevant to *du Pont* Factor No. 6.

Finally, Onsharp would like to address the issue of the protective order. Onsharp proposed a three tier protective order to preclude both parties from being able to view trade secret/ commercially sensitive information. As Sharp has filed the Notice of Opposition, it is clear that it considers Onsharp to be its competition for services. As such, Onsharp does not want to have anyone at Sharp view its trade secret/commercially sensitive information, including its in-house counsel.

I would welcome your reasoning from suggesting that the protective order preclude anyone who was not associated with in-house or outside counsel from viewing confidential material. I have never seen such a restriction, and my client will not agree to such a provision as this would preclude anyone from Onsharp from viewing confidential information. This is simply unacceptable and I would gladly welcome the opportunity for both parties to state their case to the TTAB such that a protective can be put in place in this matter.

July 21, 2011
Page 5

Further, with respect to Ms. Sandin and her law firm, this is a non-issue in this matter as she is neither an employee of Onsharp nor an attorney of record in this matter. We consider this request to be merely for purposes of harassment and will not discuss the matter further.

Yours very truly,

A handwritten signature in black ink, appearing to read "Peter V. Ims", with a stylized flourish at the end.

Peter V. Ims

PJI
Enc.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SHARP KABUSHIKI KAISHA, a/t/a	)	Attorney Ref.: 790-2052
SHARP CORPORATION,)	
)	
Opposer,)	
)	
v.	)	Opposition No. 91190899
	)	Mark: ONSHARP
ONSHARP, INC.,	)	Application No. 77/645,273
)	
Applicant.)	

EXHIBIT J

TO

**OPPOSER'S MOTION TO COMPEL DISCOVERY
AND FOR ENTRY OF A MODIFIED PROTECTIVE ORDER**



Onsharp

Category: [Web Design](#)

474 45th St S

Fargo, ND 58103

(701) 356-9010

Hours:

Mon-Fri 8 am - 5 pm



About This Business Provided by business

Specialties

Onsharp is focused on driving success for your business by helping you leverage web based technologies to achieve measurable business results. We implement a proven process called the Onsharp 3D Process, to ensure your business receives the most value possible from your technology investment. We specialize in six core areas: Web Strategy, Web Development, Web Design, Web Optimization, Web Marketing, and Web Hosting. Are you ready to start reaching your business goals?

History

Established in 2000

Onsharp started developing websites in Minnesota while Joe Sandin and his original partner were still attending University of St. Thomas. After moving to Fargo, North Dakota, Onsharp has grown to a company of 12 employees including a diversely talent development team. In 2009, Onsharp released their first service product, SmartPay. SmartPay is paperless billing and payment that allows business of all sizes to send invoices for less than the cost of a stamp!

Meet the Business Owner: Joe S.



Born and raised in the small town of New London, Minnesota, Joe Sandin brings a strong work ethic, eye for detail, and passion for results to Onsharp. He graduated from the University of Saint Thomas with a degree in Computer Information Systems. Mr. Sandin has more than 8 years of experience on both the technical and business side of web-based software and has provided web-based software solutions to more than 50 small businesses throughout the Midwest. Mr. Sandin is a Microsoft Certified Professional, having received his MCAD certification in 2006. Mr. Sandin values good communication and a professionalism in every one of his business relationships and encourages those same values within his own organization. Joe lives in Fargo with his Wife, Toni, daughter, Taylor, and poodle, Gracie.

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